

# Resettlement and Ethnic Minority Development Framework

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Multitranche Financing Facility  
Socialist Republic of Viet Nam: Power Transmission  
Investment Program

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## ABBREVIATIONS

ADB	:	Asian Development Bank
AHs	:	Affected Households
APs	:	Affected Persons
CPC	:	Commune People's Committee
DCARC	:	District Compensation, Assistance and Resettlement Committee
DMS	:	Detailed Measurement Survey
DP	:	Displaced Persons
DOIT	:	Department of Industry and Trade
DPC	:	District People's Committees
EA	:	Executing Agency
EDPs	:	Economically Displaced Persons
EMA	:	External Monitoring Agency
EM	:	Ethnic Minority
EVN	:	Vietnam Electricity
FGDs	:	Focus Group Discussions
GoV	:	Government of Viet Nam
HHs	:	Household Heads
IA	:	Implementing Agency
IOL	:	Inventory of Losses
IP	:	Indigenous Peoples
IR	:	Involuntary Resettlement
LARP	:	Land Acquisition and Resettlement Plan
LURCs	:	Land Use Right Certificates
MOIT	:	Ministry of Industry and Trade
NPPMB	:	Northern Power Project Management Board
NPT	:	National Power Transmission Corporation
ODA	:	Official Development Assistance
PCARB	:	Provincial Compensation and Resettlement Board
PIB	:	Subproject Information Booklet
PICs	:	Subproject Implementation Consultants
PPMBs	:	Power Project Management Boards (NPPMB and SPPMB)
PPC	:	Provincial People's Committee
RCS	:	Replacement Cost Survey
RF	:	Resettlement Framework

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REMDP	:	Resettlement and Ethnic Minority Development Plan
RP	:	Resettlement Plan
RoW	:	Right of Way
SES	:	Socioeconomic Survey
SAH	:	Severely Affected Household
SPPMB	:	Southern Power Project Management Board
SPS	:	Safeguard Policy Statement
VND	:	Vietnam Dong

## GLOSSARY

Affected person (AP)	- Means any person or persons, household, firm, private or public institution that, on account of changes resulting from the Subproject, will have its (i) standard of living adversely affected; (ii) right, title or interest in any house, land (including residential, commercial, agricultural, forest, salt mining and/or grazing land), water resources or any other moveable or fixed assets acquired, possessed, restricted or otherwise adversely affected, in full or in part, permanently or temporarily; and/or (iii) business, occupation, place of work or residence or habitat adversely affected, with or without displacement. In the case of a household, the term DP includes all members residing under one roof and operating as a single economic unit, who are adversely affected by a subproject or any of its components.
Displaced Persons (DP) <i>(Will replace as per ADB SPS the APs used in various documents)</i>	In the context of involuntary resettlement, displaced persons are those who are physically displaced (relocation, loss of residential land, or loss of shelter) and/or economically displaced (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas
Detailed Measurement Survey (DMS)	- With the aid of the approved detailed engineering design, this activity involves the finalisation and/or validation of the results of the inventory of losses (IOL), severity of impacts, and list of DPs earlier done during RP or REMDP preparation. The final cost of resettlement can be determined following completion of the DMS.
Compensation	- Means payment in cash or in kind to replace losses of lands, housing, income and other assets caused by the Subproject. All compensation is based on the principle of replacement cost, which is the method of valuing assets to replace the loss at current market rates, plus any transaction costs such as administrative charges, taxes, registration and titling costs.
Cut-off date	Means the date of completing DMS for which land and/or assets affected by the Subproject are measured. The AHs will be informed of the cut-off date for each subproject component, and any people who settle in the subproject area after the cut-off date will not be entitled to compensation and assistance under the subproject.
Entitlements	- Refers to a range of measures comprising compensation, income restoration support, transfer assistance, income substitution, relocation support, etc. which are due to the AHs, depending on the type and severity of their losses, to restore their economic and social base.
Eligibility	- Means any person who has settled in the subproject area before the cut-off date that suffers from (i) loss of shelter, (ii) loss of assets or ability to access such

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assets, permanently or temporarily, or (iii) loss of income sources or livelihood, regardless of relocation ... will be entitled to compensation and/or assistance.

- Income restoration - This is the re-establishment of sources of income and livelihood of the affected households.
- Income restoration programme - A programme designed with various activities that aim to support affected persons to recover their income / livelihood to pre-subproject levels. The programme is designed to address the specific needs of the affected persons based on the socio-economic survey and consultations.
- Inventory of Losses (IOL) - This is the process where all fixed assets (i.e., lands used for residence, commerce, agriculture, including ponds; dwelling units; stalls and shops; secondary structures, such as fences, tombs, wells; trees with commercial value; etc.) and sources of income and livelihood inside the Subproject right-of-way (subproject area) are identified, measured, their owners identified, their exact location pinpointed, and their replacement costs calculated. Additionally, the severity of impact to the affected assets and the severity of impact to the livelihood and productive capacity of DPs will be determined.
- Land acquisition - Refers to the process whereby an individual, household, firm or private institution is compelled by a public agency to alienate all or part of the land it owns or possesses to the ownership and possession of that agency for public purposes in return for compensation at replacement costs.
- Rehabilitation - This refers to additional support provided to AHs losing productive assets, incomes, employment or sources of living, to supplement payment of compensation for acquired assets, in order to achieve, at a minimum, full restoration of living standards and quality of life.
- Relocation - This is the physical relocation of an AH from her/his pre-subproject place of residence and/or business.
- Replacement cost - The term used to determine the value enough to replace affected assets and/or cover transaction costs necessary to replace the affected assets without depreciation for such assets as well as material advantage, taxes and/or travel expenses.
- Replacement Cost Study - This refers to the process involved in determining replacement costs of affected assets based on empirical data.
- Resettlement - Means all social and economic impacts that are permanent or temporary and are (i) caused by acquisition of land and other fixed assets, (ii) by change in the use of land, or (iii) restrictions imposed on land, as a result of a project. This includes all measures taken to mitigate any and all adverse impacts of a subproject on DP property and/or livelihoods, including compensation, relocation (where relevant), and rehabilitation as needed.
- Resettlement Plan (RP) - This is a time-bound action plan with budget setting out compensation and resettlement strategies, objectives, entitlement, actions, responsibilities, monitoring and evaluation.
- Severely Affected - This refers to affected households who will (i) lose 10% or more of their total

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- Household (SAH) - productive land and/or assets, (ii) have to relocate; and/or (iii) lose 10% or more of their total income sources due to the subproject.
- Ethnic minority (EM) peoples : According to ADB definition, the term Indigenous (EM) Peoples is used in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees:  
 (i) Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;  
 (ii) Collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories;  
 (iii) Customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and  
 (iv) A distinct language, often different from the official language of the country or region.  
 In the case of Viet Nam, there is a high degree of consistency between the Vietnamese definition of ethnic minorities and ADB's definition of Indigenous People. The main point of divergence is that, in the case of ADB's policy, a group that has lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance remains eligible for coverage. National legislation, customary law, and any international conventions to which Viet Nam is a party are taken into account for application of the ADB policy.
- Broad community support : Ascertain the consent of affected EM Peoples communities to the project activities where EM Peoples groups are deemed to be particularly vulnerable
- Meaningful Consultation : A process that (i) begins early in the project preparation stage and is carried out on an on-going basis throughout the project cycle; (ii) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (v) enables the incorporation of all relevant views of affected people and other stakeholders into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues.
- Consent of Affected EM Peoples Communities : For the purpose of policy application, this refers to a collective expression by the affected EM Peoples communities, through individuals and/or their recognized representatives, of broad community support for the project activities. Such broad community support may exist even if some individuals or groups object to the project activities. The consent from the affected EM communities will include the formal agreements reached with EM Peoples communities and/or EM Peoples' organizations.
- Vulnerable groups : These are distinct groups of people who might suffer disproportionately or face the risk of being further marginalised by the effects of resettlement and specifically include: (i) female headed households with dependents, (ii) disabled household heads, (iii) households falling under the generally accepted indicator for poverty, (iv) children and the elderly households who are landless and with no other means of support, and (v) landless households, and (vi) indigenous people or ethnic minorities.



# 1. Introduction

1. This Resettlement and Ethnic Minority Development Framework (REMDF) prepared by NPT in consultation with ADB provides the procedures and key involuntary resettlement and ethnic minority principles that will govern all the work items of subprojects financed under the Power Transmission Investment Program, regardless of the financing sources. The framework is based on the provisions of the policy and legal framework of the Government of Vietnam and Asian Development Bank (ADB SPS 2009 Safeguard Requirements 2 and 3 and cross-cutting policy themes on social development included in the OM Section F1/OP Issued on 4 March 2010).

2. The REMDF combines the Resettlement and Ethnic Minority issues together and is developed on the basis of the Government's policies and ADB SPS allowing for IR and IP (EM) issues to be addressed in a combined document. The Government will cause NPT to ensure that the future Resettlement Plans (RPs) or REMDPs will be prepared and implemented following the principles established by this framework

## 1.1 Description of the Subprojects in first tranche

3. There are 4 Subprojects included in the tranche 1 of the Multi tranche Financing Facility that finances part of the National Power Transmission Corporation's (NPT) medium-term power transmission expansion in Viet Nam. The first tranche will finance 4 subprojects: (i) 500 kV/220 kV Pho Noi substation; (ii) 500 kV/220 kV Pho Noi – Bac Ninh 2 transmission line; (iii) 220 kV/110 kV Phu My 2 substation; (iv) 220 kV Song May – Uyen Hung transmission line.

4. **Location.** The 500 kV/220 kV Pho Noi – Bac Ninh 2 transmission line and associated 500 kV/220 kV Pho Noi substation are located in the northern part of Viet Nam. The starting point of the transmission line will be the 500 kV bus bar of the Pho Noi substation that is located in the Hung Yen province and the ending point will be the 220 kV bus bar of the Bac Ninh 2 substation located in the Bac Ninh province.

5. The 220 kV/110 kV Phu My 2 substation and 220 kV Song May - Uyen Hung transmission line are located in the southern part of Viet Nam. The 220 kV Phu My 2 substation are be located in the Ba Ria - Vung Tau province in the southern part of Viet Nam. The 220 kV Song May – Uyen Hung transmission line will be emanated from the 220 kV Song May substation located in the Dong Nai province and will feed the power into the 220 kV Uyen Hung substation located in the Binh Duong province.

6. **Impacts and estimated cost:** The impact on land for tranche 1 is 31.91 ha as permanent acquired land area for towers foundation and substations; the total number of HHs affected by permanent acquisition of productive land is 782. The total number of HHs that are temporary affected in the ROW is 1858. No house or structures are impacted permanently and no relocation is required, no ethnic minority people are affected. The total estimated cost for resettlement for tranche 1 is 325,769,000,000 VND (USD 15,808,000).

7. **Beneficiaries.** The subprojects financed under this tranche will expand the country's transmission network. The power transmission network expansion will contribute to improving system reliability and quality of electricity supply to industrial, commercial, and residential consumers in the northern and southern region of Viet Nam. It will (i) facilitate power transfers; (ii) remove transmission bottlenecks; and (iii) reduce transmission losses and voltage fluctuations. Developing an efficient and reliable power sector is essential to sustaining economic growth, to increase employment and income generating opportunities. Improving the efficiency of power transfers will also contribute to the Government's climate change mitigation efforts and will facilitate the development of a competitive power market by attracting investments from domestic and foreign Independent Power Producers. In addition, the Subprojects will benefit from NPT and its Power Project Management Boards (PPMBs) in facilitating timely subproject implementation. Based on the constraints identified, external consultants will be engaged to support and complement the staff in NPT and the PPMBs with activities involving (i) procurement; (ii) construction supervision and management; (iii) implementation of social safeguards measures; and (iv) on the job-training to effectively prepare and implement social safeguards measures for subsequent financing tranches.

## **1.2 Description of future subprojects**

8. Future subprojects to be funded under the MFF will be based on the requirements of NPT and ADB. Detailed work will be completed to prepare future tranches including preparation of safeguard documentation.

9. **Tranche 2:** Tranche 2 has been broadly designed and comprises a 437km long 500kV transmission line from Pleiku to Cau Bong. The starting point is at 500kV of Pleiku 500kV substation and ends at 500kV of Cau Bong 500kV substation, the length of transmission line route is 437.217km and the width of the right of way (ROW) to be of 32m. The transmission line route will cross 5 provinces and 1 city as follows: + Gia Lai Province including: Chu Pah district, Ia Grai district, Pleiku City; Chu Prong district, Chu Se district and Chu Puh district. + Dak Lak Province including: Ea H'leo district, Ea Sup district, Krong Buk district, Cu M'Gar district, Buon Don district and Buon Ma Thuot City. + Dak Nong including: Cu Jut district, Dak Mil district, Krong No district, Dak Song and Tuy Duc district. + Binh Phuoc Province including: Bu Dang district, Bu Gia Map district, Dong Phu district and Chon Thanh district. + Binh Duong Province including: Phu Giao district and Ben Cat district. + Ho Chi Minh City including: Cu Chi district.

10. **Impacts and estimated cost:** The total impact on land for tranche 2 is a) Permanent acquired land area for towers foundation is 46,39 ha; b) Transmission lines route right-of-way area (ROW) is 1,345.7 ha. The total number of HHs affected by

acquisition permanently of productive land for substation construction is 1,410. The total number of HHs that is temporary affected in the ROW is 3,472. The total number of impacted houses, structure acquired permanently within ROW is 376 HHs and 10% belonging to ethnic minorities. The total estimated cost for resettlement for tranche 2 is 415,271,188,000 VND (USD 20,151,000)

### 1.3 Sub-Projects Screening for Categorization

11. Subprojects will tentatively be classified during the initial screening of anticipated impacts and risks, and this classification will be reconfirmed at the stage of ADB management review meeting (MRM). However, classification is an on-going process, and the classification will be reviewed as more detailed information becomes available and project processing proceeds

12. The subproject's involuntary resettlement category is to be determined by the category of its most sensitive component in terms of involuntary resettlement impacts. The involuntary resettlement impacts of an ADB-supported project are considered significant if 200 or more persons will experience major impacts, which are defined as (i) being physically displaced from housing, or (ii) losing 10% or more of their productive assets (income generating). The level of detail and comprehensiveness of the resettlement plan are commensurate with the significance of the potential impacts and risks.

13. In case of likely impacts on EM Peoples, early screening of the subproject and its components is critical to determine (i) whether EMs are present in, or have collective attachment to the project area; and (ii) whether project impacts on EMs are likely. ADB, in discussion with the Executing Agency (EA), will carry out screening of the project component and IP/EM categorisation at the earliest possible stage of preparation. (Refer to Annex 1 Sample Screening Checklists).

14. Each component of the project is to be categorized in terms of its potential impacts on Ethnic Minorities as follows as per ADB OM Section F1/OP Issued on 4 March 2010 Page 3:

- (i) **Category A.** A proposed component is classified as category A if it is likely to have significant (positive or negative) impacts on EMs. An EMDP or REMDP, including assessment of social impacts, is required.
- (ii) **Category B.** A proposed component is classified as category B if it is likely to have limited impacts (positive or negative) on EMs. An EMDP or REMDP, including assessment of social impacts, is required.
- (iii) **Category C.** A proposed component is classified as category C if it is not expected to have impacts on EMs. No further action is required.
- (iv) **Category FI.** A proposed component is classified as category FI if it involves the investment of ADB funds in, or through, a financial intermediary. This category is not expected to be relevant to this Energy Sector MFF.

15. The Initial Poverty and Social Analysis (IPSA) for subsequent tranches will flag the social dimensions of each of the proposed sub-projects and categorise them according to

their impacts on Involuntary Resettlement, ethnic minorities and other social safeguards. If the component is assessed as Category A or B (i.e., any impacts on EMs), then a **Social Impact Assessment** (explained in following chapter) will be conducted during the project feasibility/design. This may be done as part of the feasibility study or as a standalone activity.

#### **1.4 Anticipated Involuntary Resettlement and Ethnic Minority Impact of Tranche 1**

16. For the tranche one, the summary of the impacts and the estimated cost has been provided above. Over 200 affected people will potentially lose more than 10% of their productive asset for the two subprojects in the North (500 kV and 220 kV Pho Noi – Bac Ninh 2 transmission line and associated 500 kV/220 kV Pho Noi substation), making these subprojects Category A. Less than 200 affected people will potentially lose more than 10% of their productive asset for the subprojects in the South (220 kV/110 kV Phu My 2 substation and 220 kV Song May - Uyen Hung transmission), making these projects Category B.

17. The IOL carried out for Tranche 1 did not identify any DP requiring physical displacement. The provincial governments further confirmed that there are no ethnic minority people residing in the subproject area. Therefore for IP/EM category is C.

18. Whereas designers have taken care to minimise the amount of land required for the Subproject, construction of these works will inevitably cause certain farmers to lose a proportion of their land to make ways for the new system. Construction is also likely to cause significant disruption to the existing population as a whole, the temporary impacts are to be assessed and made eligible for compensation.

#### **1.5 Involuntary Resettlement and Ethnic Minority Impact of Subsequent Tranches**

19. If unanticipated involuntary resettlement impacts are found during project preparation and or implementation, such as Ethnic Minority population to be affected the EA will explore to the maximum extent possible alternative project designs to avoid physical relocation of EM Peoples that will result in adverse impacts on their identity, culture, and customary livelihoods. If avoidance is impossible, in consultation with ADB, a combined Resettlement and Ethnic Minority Development Plan will be formulated to address both involuntary resettlement and EM Peoples issues. Such a combined plan will also meet all relevant requirements specified under Safeguard Requirements 3.

## **1.6 Objective of Resettlement and Ethnic Minority Development Framework**

20. This Resettlement and Ethnic Minority Development Framework prepared by NPT in consultation with ADB provides the procedures and key involuntary resettlement and ethnic minority principles that will govern all the work items of subprojects financed under the Power Transmission Investment Program, regardless of the financing sources, and implementation based on the provisions of the policy and legal framework of the Government of Vietnam and Asian Development Bank (ADB SPS 2009 Safeguard Requirements 2 and 3 and cross-cutting policy themes on social development included in the OM Section F1/OP Issued on 4 March 2010).

21. The REMDF will concern all the subprojects under this investment program and adheres to the objectives of the following safeguards principles which are:

- (i) Avoid adverse impacts of subprojects on the environment and affected people, where possible;
- (ii) Minimize, mitigate, and/or compensate for adverse subproject impacts on the environment and affected people when avoidance is impossible; and
- (iii) Develop the capacity to manage the social risks.

22. The RP or REMDP will be translated into Vietnamese and distributed to the central and local agencies, affected households, and other individuals responsible for subproject preparation and implementation. It will also be submitted to the ADB for review and approval. The RP or REMDP will be publicly disclosed on ADB's website.

23. During the preparation of subprojects the EA will explore to the maximum extent possible alternative subproject designs to avoid physical relocation of Ethnic Minority People that will result in adverse impacts on their identity, culture, and customary livelihoods. If avoidance is impossible, in consultation with ADB, a combined EM Peoples plan and resettlement plan will be formulated to address both involuntary resettlement and Ethnic Minority Peoples issues. Such a combined plan will meet all relevant requirements specified under ADB SPS Safeguard Requirements 2 and 3.

## 2. Objectives, Policy Framework, and Entitlements

### 2.1 Asian Development Bank Policy

24. The new ADB Safeguard Policy Statement (2009) consolidates three existing safeguard policies: Involuntary Resettlement (IR), Ethnic Minorities (EM), and environment. The objectives of the IR policy are:

- (i) To avoid involuntary resettlement wherever possible;
- (ii) To minimise involuntary resettlement by exploring subproject and design alternatives;
- (iii) To enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-subproject levels; and,
- (iv) To improve the standards of living of the displaced poor and other vulnerable groups.

25. Involuntary Resettlement covers physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas – regardless of whether such losses and involuntary restrictions are full or partial, permanent or temporary. Moreover, the Policy also applies to associated facilities funded through other sources and involuntary resettlement actions conducted by the borrower/client in anticipation of ADB support.

26. In case of Ethnic Minority population affected, the overall objective will be: (i) minimize and mitigate project impact on the livelihoods of ethnic minority people in the area affected by the project; (ii) ensure that the process of project implementation fosters full respect for the dignity, human rights and cultural uniqueness of ethnic minorities in the project affected area, and takes into account their development needs and aspirations

27. Subprojects financed by ADB, including associated facilities that are financed by the Government or other sources, are expected to observe the following policy principles:

- i. Screen early to identify involuntary resettlement impacts and risks and determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.
- ii. Carry out meaningful consultations with displaced persons, host communities, and concerned non-government organisations. Inform all displaced persons of their entitlements and resettlement options and ensure their participation in various stages of the subproject especially vulnerable and poor groups. Establish a grievance redress mechanism to receive and facilitate resolution of the displaced

- persons' concerns. Support the social and cultural institutions of displaced persons and their host population.
- iii. Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation, assistance at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation, assistance at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.
  - iv. Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of subproject benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.
  - v. Improve the standards of living of the displaced poor and other vulnerable groups, including women head of households, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.
  - vi. Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.
  - vii. Ensure that displaced persons without titles to land or any recognisable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.
  - viii. Prepare a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.
  - ix. Disclose both the draft and final resettlement plan in a form and language understandable to displaced persons and other stakeholders.
  - x. Conceive and execute involuntary resettlement as part of a development subproject or programme. Include the full costs of resettlement in the presentation of subproject's costs and benefits. For a subproject with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the subproject as a stand-alone operation.
  - xi. Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout subproject implementation.
  - xii. Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.
  - xiii. **In case of Indigenous people/Ethnic Minority population**, undertake meaningful consultations with affected EM Peoples communities and concerned EM Peoples organizations to solicit their participation (i) in designing, implementing, and monitoring measures to avoid adverse impacts or, when avoidance is not possible, to minimize, mitigate, or compensate for such effects; and (ii) in tailoring project benefits for affected EM Peoples communities in a



culturally appropriate manner. To enhance EM Peoples' active participation, projects affecting them will provide for culturally appropriate and gender inclusive capacity development. Establish a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of the EM Peoples' concern.

- xiv. Ascertain the consent of affected EM Peoples communities to the following project activities: (i) commercial development of the cultural resources and knowledge of EM Peoples; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of EM Peoples. For the purposes of policy application, the consent of affected EM Peoples communities refers to a collective expression by the affected indigenous Peoples communities, through individuals and/or their recognized representatives, of broad community support for such project activities. Broad community support may exist even if some individuals or groups object to the project activities.
- xv. Continue consultation with the affected EM Peoples communities during project implementation; specifies measures to ensure that EM Peoples receive culturally appropriate benefits; identifies measures to avoid, minimize, mitigate, or compensate for any adverse project impacts; and includes culturally appropriate grievance procedures, monitoring and evaluation arrangements, and a budget and time-bound actions for implementing the planned measures.

28. Calculation of full replacement cost will be based on the following elements: (i) fair current market value at the time of compensation; (ii) transaction costs; (iii) interest accrued, (iv) transitional and restoration costs; and (v) other applicable payments, if any. In the calculation, depreciation of structures will not be taken into account. It is expected that qualified and experienced experts will undertake the valuation of acquired assets<sup>1</sup>.

29. Persons or households without formal legal rights nor recognised or recognisable claims to the acquired land are still entitled to be compensated for their loss of assets other than land, such as dwellings or other improvements on the land at full replacement cost, provided that they have occupied/used the land or structures in the affected land prior to the cut-off date.

## **2.2 Regulations of Vietnam Government on Resettlement and Ethnic Minorities**

30. The Constitution of the Socialist Republic of Viet Nam (1992) confirms the right of citizens to own and protect the ownership of a house. In addition, the Government has enacted a number of laws, decrees and regulations that constitute the legal framework for land acquisition, compensation, assistance and resettlement. The principal documents include the Law on Land of 2003, providing Vietnam with a comprehensive land administration law; Decree No. 197/2004/ND-CP, on compensation, assistance, rehabilitation and resettlement in the event of land recovery by the State, as amended by Decree No. 17/2006/NĐ-CP; Decrees No. 188/2004/ND-CP and 123/2007/ND-CP, Decree No. 84/2007/ND-CP specifying the methods for land pricing and land price frameworks in the event of land recovery by the State and Decree No. 69/2009/ND-CP

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<sup>1</sup> Refer to Appendix 2 (Involuntary Resettlement) and Appendix 3 (Indigenous People), Safeguards Policy Statement, June 2009, ADB



dated 13/8/2009 providing additional guidelines on land use, compensation, assistances and resettlement.

31. Laws, decrees and decisions relevant to public disclosure of information include the Law on Land, No. 13/2003/QH11, Article 39, requiring disclosure of information to the displaced persons prior to recovery of agricultural and non-agricultural lands of a minimum of 90 and 180 days minimum respectively. MONRE also issued Circular No. 14/2009/TT-BTNMT on the allocation of new residential land or a resettlement house or monetary compensation for displaced persons that need to relocate and granting authority to People's Committees to determine whether certain structures built after 1 July 2004 violated approved land use.

32. Decrees relevant to Detailed Regulations and Guidelines on some articles implementation in Electricity Law on safety protection for high voltage power network. That is Decree No.106/2005/NĐ-CP by GOV, date on August 17, 2005 and Decree No.81/2009/NĐ-CP dated on October 12, 2009 by GOV on amendment and adjustment some articles of Decree No. 106/2005/NĐ-CP dated on August 17, 2008.

33. At the local level, the provinces has issued a Provincial Decisions, consolidating Decree 69/2009/ND-CP and other legal documents relevant to planning and implementation of resettlement at the provincial level. The Provincial Decisions stipulates that compensation for land shall be at the market rate following the provincially regulated price-frame, which is issued each January, and provides for assistance/allowances for relocation, livelihood and production stabilisation as well as occupational training and other changes.

34. There is basic congruence between Viet Nam's laws and ADB's Resettlement Policy especially with regard to the entitlement of persons with legal rights/titles. Existing legislation provides guidance in (i) determining market/replacement rates and payment of compensation, assistances for various types of affected assets; (ii) options for land-for-land and cash compensation assistance; (iii) provision of relocation assistance and support to displaced households during the transition; (iv) provision of resettlement land and housing with secure tenure; (v) additional assistance for severely affected and vulnerable households; (vi) Assistance to livelihood restoration and training; and (vii) notification/disclosure, consultation, and grievance mechanisms.

35. In the case of Viet Nam, there is a high degree of consistency between the Vietnamese definition of ethnic minorities and ADB's definition of Indigenous People. The main point of divergence is that, in the case of ADB's policy, a group that has lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance remains eligible for coverage. National legislation, customary law, and any international conventions to which Viet Nam is a party are taken into account for application of the ADB policy.

36. The Indigenous People's safeguards of the ADB's Safeguard Policy Statement 2009 focus on the following points:

- (i) The consent of affected EM communities must be obtained for three types of activities: displacement from traditional or customary lands; Commercial development of the cultural resources and knowledge of EM and Physical Commercial development of natural resources within customary land under use
- (ii) Greater stress is placed on culturally appropriate measures, and gender and intergenerational considerations.
- (iii) Use of qualified and experienced experts.
- (iv) The conduct of consultation, social impact assessment, EMDP, monitoring and grievance redress will be commensurate with the nature of the project and the scale of impacts on EMs.

- (v) When the borrower/client and the affected EMs have major disagreements, the borrower/client will adopt “good faith” negotiations in resolving those disagreements.
- (vi) If there is not broad community support for the project then it will not go ahead.

37. However, ADB Policy does not consider the absence of legal rights of affected persons on the acquired land as an impediment to receiving compensation for other assets and for rehabilitation assistance. Non-registration of an DPs’ business also does not bar them from being assisted in restoring their business. Key differences between ADB Resettlement Policy and Viet Nam’s resettlement legislation, including measures to address the differences, are outlined in the table below.

Table 2-1 : Discrepancies between Decree 197/ND-CP, Decree 69/ND-CP and ADB SPS

	197/2004/ND-CP, 69/2009/ND-CP	ADB SPS 2009	Subproject Policy
<b>Severely impacted DPs losing productive land</b>	<b>Decree 69, Art 20:</b> For significantly impacted DPs, livelihood restoration measures cut in when DP loses at least 30% of productive agriculture land.	The involuntary resettlement impacts of an ADB-supported subproject are considered significant if 200 or more persons will experience major impacts, which are defined as (i) being physically displaced from housing, or (ii) losing 10% or more of their productive assets (income generating).	Losing 10% or more of the household's assets shall be considered as threshold.
<b>DPs without LURC</b>	<b>Decree 69: Article 23:</b> Persons whose main income is derived from agricultural production whose land is acquired by the Government and cannot satisfy LURC and compensation conditions stipulated in Article 8 of Decree No. 197/2004/ND-CP and Articles 44, 45 and 46 of Decree No. 84/2007/ND-CP will be referred to the Provincial Peoples' Committee for consideration of the level of assistance to be provided in conformity with the locality's actual conditions	Those DPs without legal title to land will be included in consultations. Ensure that DPs without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets including dwellings, structures and other improvements to land such as crops, irrigation, at full replacement cost. Safeguards cover involuntary restrictions on land use or on access to legally designated parks and protected areas. Covers temporary and partial losses.	Subproject affected people, without legal or recognisable legal claims to land acquired, will be equally entitled to participation in consultations and subproject benefit schemes where possible, and be compensated for their lost non-land assets such as dwellings and structures occupied before cut-off date. They will be entitled to resettlement assistance and other compensation and social support to assist them to improve or at least restore their pre-subproject living standards and income levels.

	197/2004/ND-CP, 69/2009/ND-CP	ADB SPS 2009	Subproject Policy
<b>Compensation for lost land</b>	<p><b>Article 9, Decree 197:</b> The compensation rates for land shall be determined by the PPC in accordance with the Government regulations for the type of land which has been used for at the time of land acquisition.</p> <p><b>Decree 69, Art 11, Art 16,</b> Compensation is land for same-use land or if not available the DP can be compensated in cash based upon the market transfer price of such land at the time of the decision to acquire. Compensation limited to the allowable land quota, unless land over limit due to inheritance or legally transferred from other persons, or unused land developed according to the land use plan approved by the authorities. If not, compensation only for improvements on that land.</p>	<p>Land based livelihoods restoration based upon land based strategies where possible, or cash compensation at replacement value provided loss of land does not undermine livelihoods for those with legal rights to land.. Provide adequate and appropriate replacement land. If land not available non-land based options built around opportunities for employment, self-employment should be provided in addition to cash compensation for land and non-land assets lost.</p>	<p>Where appropriate land-based compensation is not viable, replacement cost surveys will be carried out by the subproject staff to ensure that subproject rates for all categories of loss will be equivalent to replacement cost at current market value. This work will be updated at the time of compensation and will combined with other assistance and livelihood restoration measures to ensure full restoration and improvements. Provided DP has legal or recognisable claim, compensation will be for full amount of land acquired.</p> <p>Based on the ADB SPS 2009 land-for-land compensation strategy is mandatory in the case of involuntary resettlement impact on Ethnic Minorities.</p>
<b>Differences between compensation rates and market rates</b>	<p><b>Dec 69 Art 14(2):</b> If compensation is through new land or allocation of land at a resettlement area or by housing and the replacement is valued at less than the land acquired, the price difference will be paid in cash. <b>Dec 69 Art 14(2a)</b> If replacement residential land or the amount compensated to purchase a replacement house is more than the actual replacement cost, the DP still receives the full amount. <b>Dec 69 Art 14(2b)</b> if the compensated amount is less than the replacement residential land and house the DP will pay the difference themselves except for cases covered by Art 19(1) – this will not apply to (poor) DPs who will be assisted by the State. If the DP does not receive land or house at the resettlement site</p>	<p>Provide physically and economically DPs with needed assistance including i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of DPs economically and socially into host communities, ii) transitional support and development assistance such as land development, credit facilities, training or employment opportunities, and, iii) civil infrastructure as required.</p>	<p>Physically displaced (relocated) DPs are to receive relocation assistance, secured tenure to relocated land, with comparable access to production and employment opportunities, and civic infrastructure and community services as required, transitional support and development assistance such as land development, credit facilities, training or employment opportunities.</p>

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	197/2004/ND-CP, 69/2009/ND-CP	ADB SPS 2009	Subproject Policy
	the DP will receive the cash difference.		
<b>Compensation for structures</b>	<p><b>Dec 69 Art 24 – Compensation for House, Structures on Acquired Land.</b></p> <p>Clause (1) – Compensation for DPs residential structures based on value of newly constructed house/structure equal to technical standard issued by MoC and based on house area and unit prices issued by PPC. Clause (2) other structures compensation equal to: a) total present value using unit costs for newly constructed house/structure using MoC technical standards and depreciated to present value of acquired house/structure. Maximum value cannot exceed 100% of new value of acquired house/structure</p>	Rate of compensation for acquired housing, land and other assets will be calculated at full replacement costs, based upon: i) fair market value, ii) transaction costs, iii) interest accrued, iv) transitional and restoration costs, v) other applicable payments.	Full compensation at replacement cost will be paid for all affected structures without any deductions for salvageable materials or depreciation, full replacement costs, based upon: i) fair market value, ii) transaction costs, iii) interest accrued, iv) transitional and restoration costs, v) other applicable payments
<b>Compensation for registered businesses</b>	<p><b>Articles 26, Decree 197:</b> Only registered businesses are eligible for assistance. <b>Decree 69 Art 20(2)</b> if business must be suspended DP is compensated with max 30% of after tax income in one year, averaged over last 3 years as certified by Tax Dept.</p>	Affected business owners are entitled to i) costs of re-establishing commercial activities elsewhere, ii) the net income lost during the transition period, iii) costs of transferring and reinstalling plant, machinery and equipment.	Affected business owners are entitled to i) costs of re-establishing commercial activities elsewhere, ii) the net income lost during the transition period, iii) costs of transferring and reinstalling plant, machinery and equipment.
<b>Compensation for non-registered businesses</b>	<p><b>Decree 69</b> only recognises formal registered businesses as entitled to compensation for lost income based upon Tax Office records</p>	No distinction between registered or non-registered businesses in regards to compensation entitlement for lost income and other assistance.	The DPC must certify that the DP has a business in current operation and approve the level of lost income.
<b>Monitoring</b>	No monitoring indicators indicated	Monitoring indicators specified for internal and external monitoring and reporting	The EA must appoint an independent external monitor and undertake internal monitoring according to the critical indicators.

38. It should also be noted that as per Decree No. 197/2004 (i) Article 1, Item 2 states that for subprojects financed from ODA, if the compensation, assistance and resettlement required by the financiers are different from Decree 197/2004/ND-CP, before signing the international loan agreement, the subproject owner must report to the Prime Minister for his considerations and decision. Article 32 of this Decree also states that "Apart from the supports prescribed in Articles 27, 28, 29, 30 and 31, basing themselves on the local realities, the provincial-level People's Committee presidents shall decide on other supporting measures to stabilise life and production of persons who have land recovered; special cases shall be submitted to the Prime Minister for decision".

### **2.3 Subproject principles**

39. To address the discrepancies between ADB SPS and relevant GOV regulations as described in the table above, the subproject principles on resettlement policy are as follows:

- (i) Involuntary resettlement and impacts on land, structures and other fixed assets will be avoided or minimised where possible by exploring all alternative options.
- (ii) Compensation and assistance will be based on the principle of replacement cost at the time of implementation.
- (iii) Severely affected household (SAH) is considered when they are losing 10% or more of the household's assets shall be considered as threshold.
- (iv) Displaced persons without title or any recognisable legal rights to land are eligible for compensation for non-land assets at replacement cost.
- (v) Residential and agricultural land for replacement should be close to the previous places as much as possible and be suitable to displaced persons.
- (vi) Meaningful consultation will be carried out with the displaced persons and concerned groups and ensure participation from planning up to implementation. The comments and suggestions of the DPs and communities will be taken into account.
- (vii) The RP or REMDP will be disclosed to DPs in a form and language(s) understandable to them
- (viii) Resettlement identification, planning and management will ensure that gender concerns are incorporated.
- (ix) Special measures will be incorporated in the resettlement plan to protect socially and economically vulnerable groups such as households headed by women, children, disabled, the elderly, landless and people living below the generally accepted poverty line.
- (x) Existing cultural and religious practices will be respected and preserved, to the maximum extent practical.
- (xi) Culturally appropriate and gender-sensitive social impact assessment and monitoring will be carried out in various stages of the subproject.
- (xii) Resettlement transition stage should be minimised. Restoration measures will be provided to displaced persons before the expected starting date of construction in the specific location.
- (xiii) Budget for payment of compensation, assistance, and resettlement and support will be prepared sufficiently and made available during subproject implementation and by the provinces.

- (xiv) Reporting and independent monitoring should be defined clearly as part of the management system of resettlement. Independent assessment of the duration and results of the land recovery should be carried out.
- (xv) The NPT will not issue notice of possession to contractors until the NPT are officially confirmed in writing that (i) payment has been fully disbursed to the displaced persons and rehabilitation measures are in place (ii) already-compensated, assisted displaced persons have cleared the area in a timely manner; and (iii) the area is free from any encumbrances. The satisfactory resettlement to be ascertained by the independent monitor before start of the civil works.
- (xvi) Cut-off date is the date of completing DMS for which land and/or assets affected by the Subproject are inventoried.

## **2.4 Subproject Entitlements**

### **2.4.1 Eligibility**

40. Eligibility will be determined with regard to the cut-off date, which is taken to be the date of completing DMS for which land and/or assets affected by the subprojects are measured. The DPs will be informed of the cut-off date for each subproject component, and any people who settle in the subproject area after the cut-off date will not be entitled to compensation and/or assistance under the subproject.

41. In addition, legal rights to the land concerned determine the extent of eligibility for compensation with regard to land. There are three types of DPs: i) persons with Land Use Rights Certificates (LURCs) to land lost in entirety or partially, ii) persons who lost land they occupy in its entirety or partially who do not currently possess a LURC but have a claim that is recognisable under national laws, or, iii) persons who lost land they occupy in its entirety or partially who do not have any recognisable claim to that land. DPs included under i) and ii) above shall be compensated for the affected land and assets upon land. DPs included under iii) shall not be compensated for the affected land, but for the affected assets upon land and are entitled to assistance if they have to relocate.

### **2.4.2 Entitlements**

42. Households or individuals with sufficient basis for compensation will be compensated for land and structure losses equivalent to 100% of the price of such assets. Those without sufficient legal rights are also assisted as described in the entitlement matrix below.

43. The unit rates or amount for allowances indicated in the entitlement matrix can be adjusted during RP or REMDP updating to reflect actual situation at the time of implementation. However, the adjusted amounts and unit rates cannot be lower than the provisions in the entitlement matrix. Below is the entitlement matrix that should be followed for the items affected only within the subprojects when preparing the Resettlement Plan or REMDP.

Table 2-2 : Entitlement Matrix

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
<b>A. AGRICULTURAL LAND</b>			
<i>A.1: Temporarily Affected Agricultural Land</i>			
Owners with LURC, owners in process of acquiring LURC, owners eligible to acquire LURC	Loss of use of the land for a period less than 1 year	No compensation for land; however, the Subproject will: a/ Pay the rent in cash, which will be no less than the net income that would have been derived from the affected property during disruption. , b/ Restore of land within 1 month after using to its previous or better quality OR pay full replacement cost to the land owner if it fails to restore the affected land within 1 month after use of land	Subproject is responsible to restore the borrowed land within 1 month after use of land or negotiates with DPs to restore and pay for them.  PPMBs and EMA are in charge of monitoring on restoration of the affected land.
AND public organizations	Loss of use of land exceeds 1 year.	No compensation for land; however, the Subproject will: a/ Pay the rent in cash, which will be no less than the net income that would have been derived from the affected property during disruption. , b/ Restore of land within 1 month after using to its previous or better quality OR pay full replacement cost to the land owner if it fails to restore the affected land within 1 month after use of land.  Or  DP can ask the Subproject to acquire permanently that land affected at replacement cost	Full payment for AHs at least 03 months before site clearance
User with lease or temporary right	Loss of use of the land for a period less than 1 year	No compensation for land; however, the Subproject will: a/ Pay the rent in cash, which will be no less than the net income that would have been derived from the affected property during disruption. , b/ Restore of land within 1 month after using to its previous or better quality OR pay full replacement cost to the land owner if it fails to restore the affected land within 1 month after use of land	Subproject is responsible to restore the borrowed land within 1 month after use of land or negotiates with DPs to restore and pay for them.  PPMBs and External monitoring agency (EMA) is in charge of



Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
	Loss of use of land exceeds 1 year.	<p>No compensation for land if returned to original user; however, the Subproject will:</p> <p>a/ Pay the rent in cash which will be no less than the net income that would have been derived from the affected property during disruption.</p> <p>b/ Restore of land within 1 month after using to its previous or better quality OR pay full replacement cost to the land owner if it fails to restore the affected land within 1 month after use of land.</p> <p>Or DP entitled to compensation for the remaining value of the lease contract</p>	<p>monitoring on restoration of the affected land.</p> <p>Full payment for AHs at least 03 months before site clearance</p>
Non-titled user		No compensation for land; however, the Subproject will pay cash compensation for loss of standing crops and trees at market prices (see D, below).	Compensation will be at least equivalent to income lost as a result of the temporary acquisitions of the land.
<i>A.2 Permanently affected agricultural land</i>			

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
<p>Owners with LURC, owners in process of acquiring LURC, owners eligible to acquire LURC AND public organizations</p>	<p>More than 10 percent or more of total productive landholding affected</p>	<p>a/ As a priority, allocation of replacement land: (i) equal in area to affected land up to a maximum of land quota in the locality; (ii) of same category (or productive capacity); (iii) at a location satisfactory to DP; (iv) with full title in the names of both the household head and his/her spouse; and (v) without charge for taxes, registration and land transfer charges; and</p> <p>b/ Economic rehabilitation package (see G, below);</p> <p>Or, if DP opts,</p> <p>a/ Cash compensation at replacement cost); and,</p> <p>b/ Economic rehabilitation package (see G, below).</p>	<p>If remaining land holding is not economically viable i.e. is too small to be economically cultivated, the Subproject will acquire the entire land holding and not just the affected portion. The size of the entire holding will be the basis for providing replacement land or cash compensation. The economically remaining land area will be identified by DCARC for each case.</p> <p>DCARCs will determine whether the remaining holding can be viable or not and take care of this issue during DMS implementation.</p> <p>Full payment for AHs at least 01 months before site clearance</p>
	<p>Less than 10 percent of total productive landholding affected; OR No suitable replacement land available</p>	<p>Cash compensation at replacement cost at current market prices for affected portion if remaining holding is viable;</p> <p>OR</p> <p>Cash compensation at replacement cost at current market prices for entire landholding, if remaining holding is not viable.</p>	<p>Implemented by DCARCs Decided by DPCs</p>
	<p>Affected landholding located in urban, peri-urban or rural residential area, as per approved land use plan</p>	<p>a/ Cash compensation at replacement cost for affected land; and</p> <p>b/ Additional cash allowance equal to 20 percent of the agricultural land value but the supported area is not exceeding 5 (five) times of the land quota in the locality.</p>	<p>Implemented by DCARCs Decided by DPCs</p>

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
	Affected land lying intermixed with residential areas but un-certified as residential land; pond and garden land lying the same area containing residential houses along canals and along transportation lines.	a/ Cash compensation at replacement cost for affected land; and  b/ Additional cash allowance equal to 40 percent of the agricultural land value but the supported area is not exceeding 5 (five) times of the land quota in the locality.	Implemented by DCARCs Decided by DPCs
	Affected landholding is under dispute.	Compensation (for land and all non-land affected assets on the affected land) held in escrow account until land dispute is resolved.	Implemented by DCARCs Decided by DPCs
User with lease or temporary rights	Any impacted items	Cash compensation equivalent to 30 percent of replacement cost for affected land;  OR, Cash compensation for loss of net income for the remaining leased or assigned period, whichever is higher.	Preceding note on viability of remaining (unaffected) portion of plot also applies  Implemented by DCARCs
Non-titled user	Any impacted items	a/ No compensation but to be supported for affected land at the same compensation price for the land with lowest position in the land categories of the province, and  b/ Economic rehabilitation package in lieu of compensation (see G, below).	For non-titled DPs with no other productive landholdings, local authorities will allocate replacement land with temporary or lease land rights
Eligible organizations	Any impacted items	a/ No compensation for affected land but support equivalent with 70% of compensation value of the affected land; and  b/ Cash compensation at current market prices for all non-land affected assets on the affected land and allowance for transfer assets, If any.	The compensation amount must be paid to account of affected commune and used for infrastructure improvement of the commune

*A.3 Impact on productive land in ROW*

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
All AHs have trees/fruit trees in ROW	Partially impact or totally impact	a/ No compensation for land. b/ Compensation for fruit trees and others at market price.	Affected land in ROW will be rehabilitated by contractors after the subproject construction and land in ROW could be used with the restricted purposes. (Described in Decree 81, 2009, article 1)  AHs can be required to cut affected trees, subproject will pay for this work.
<b>B. RESIDENTIAL AND/OR NON-AGRICULTURAL LAND (e.g., commercial)</b>			
<i>B.1. Temporarily Affected Residential and/or Non-Agricultural Land</i>			
Owners with LURC, owners in process of acquiring LURC, owners eligible to acquire LURC	Temporary loss of use of land	No compensation for land; however, a/ The Subproject will pay rent to DPs during temporary use; and b/ Compensation for any demolished structures at replacement cost; and c/ Restore land within 1 month after use to its previous or better.	Rent will be determined so as to be not less than the amount of income foregone due to the temporary loss of this land  PPMBs and EMA are in charge of monitoring contractors on restoration of the affected land.

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
User with lease or temporary right	Temporary loss of use of land	<p>No compensation for land; however,</p> <p>a/ The Subproject will pay rent to DPs during the temporary use or compensation for the remaining value of the contract; and</p> <p>b/ Compensation for any demolished structures at replacement cost; and</p> <p>c/ Restore land within 1 month after use of land to its previous or better quality.</p> <p>OR, if DP opts:</p> <p>a/ Compensation for any demolished structures at replacement cost; and</p> <p>b/ Compensation for the remaining value of the contract.</p> <p>c/ Restore land within 1 month after use of land to its previous or better quality.</p>	<p>Rent will be determined so as to be not less than the amount of income foregone due to the temporary loss of this land</p> <p>PPMBs and EMA are in charge of monitoring contractors on restoration of the affected land.</p>
<i>B.2. Permanently Affected Residential and/or Non-Agricultural Land</i>			
Owners with LURC, owners in process of acquiring LURC, owners eligible to acquire LURC	Loss of residential and/or non-agricultural landholding without houses and structures built thereon	<p>As a priority, allocation of replacement land: (i) equal to area of affected land up to a maximum of land quota in province of subproject; (ii) of same type (e.g., residential, commercial); (iii) at a location satisfactory to DP; (v) with full title in the names of both the household head and his/her spouse; and (vi) without charge for taxes, registration and land transfer charges;</p> <p>OR, if DP opts,</p> <p>Cash compensation at replacement cost for the affected land. The compensated area does not exceed the residential land quota in the locality; and</p>	<p>a/ The DPC will determine availability of replacement land</p> <p>b/ Affected landholding is under dispute: Compensation held in escrow account until land dispute is resolved.</p> <p>c/ Full payment for AHs at least 03 months before site clearance</p>
	Affected landholding exceeds area of land quota.	a/ Cash compensation for the area greater than land quota at replacement cost based on current market prices for agricultural land plus an allowance equal to 40% of the affected residential land value;	

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
	<p>Loss of residential land/or non-agricultural landholding with houses and structures built thereon.</p>	<p>and</p> <p>b/ Cash compensation at replacement cost for non-land affected asset (see C below).</p> <p>DP will be entitled to one of the following options:</p> <p>(i) Stay and rebuild their houses/structures on the remaining land if viable, and cash compensation at replacement cost for the affected land area and the affected house/structures without depreciation of salvable materials, plus package of rehabilitation allowances (see G); OR</p> <p>(ii) Relocation in resettlement site with cash compensation at replacement cost for the affected house/structures without depreciation of salvable materials, plus package of rehabilitation allowances (See G). If amount of compensation is lower than value of a standard plot or apartment in resettlement site, the difference payment is not required; OR</p> <p>(iii) Self-relocation with cash compensation at replacement cost for affected land and house/structures without depreciation of salvable materials, plus package of rehabilitation allowances (see G); and relocation household is entitled to support by cash for preparation of housing foundation equal to the average investment value in infrastructure of a standard plot in resettlement site.</p>	<p>a/ Infrastructure in relocation site will be constructed by subproject.</p> <p>The resettlement sites are all close to the affected area and with completed infrastructures.</p> <p>b/ Affected landholding is under dispute: Compensation held in escrow account until land dispute is resolved.</p>
<p>User with lease or temporary rights</p>	<p>Loss of residential land/or non-agricultural land</p>	<p>a/ Cash compensation for the remaining value of contract, and</p> <p>b/ Cash compensation at replacement cost for house/structures on affected land, and</p> <p>c/ Package of rehabilitation assistance (see G below).</p>	<p>Local authorities assist DP to find alternative land.</p>

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
Non-titled user	Loss of residential land or non-agriculture land	No compensation for affected land; however, a/ Non-titled DP entitled to compensation for affected structures (see C, below), and b/ Package of rehabilitation allowances (see G below)	a/ In case of non-titled DP has no other residential land/or non-agriculture land: Local authorities should consider to allocate replacement residential land or house with full title and plus package of rehabilitation allowances  b/ In case of non--titled DP has no other non-agriculture land: Local authorities should consider to allocate replacement non-agriculture land with temporary of lease land right.
Eligible organizations	Loss of non-agricultural land	a/ No compensation for land if land use fee is unpaid or paid by state funds, otherwise cash compensation for land at replacement cost; and b/ Cash compensation for affected structures and allowance of relocation if any.	
<i>B3. Impact on residential land in ROW</i>			
All AHs have house/Structure and trees in ROW	Partially impact on house or structures in ROW (affected area less than 50% of total land area without any impact to the remaining structures of the house/building	a/ No compensation for land.  b/ Retain their houses in ROW according to the conditions regulated by Article 6 of Decree No. 106/2005/NĐ-CP and Cash compensation for directly affected parts of the houses at the replacement cost and cost for demolishing the affected part.  C/ Support for utilization restricted land	AHs will demolish the impacted part/structures and reconstruct or improve their houses themselves.  Affected land in ROW will be rehabilitated by contractors after the subproject construction and land in

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
	Demolishing partial or totally impact on house/structures (impact > 50%, or less than 50%)	a/ No compensation for land. b/ AH could chose one of the following options: c/Retaining their houses or building in ROW according to the conditions regulated by Article 6 of Decree 106/2005/NĐ-CP. Allowance for purchasing fireproof materials and lightning arrestors for the existing house/building. d/ Cash compensation at replacement cost for full areas of affected house/structure and cost for demolishing AHs' houses in ROW. c/ Support for utilization of restricted land	ROW could be used with the restricted purposes.  Consulting with AHs on options of retaining their house in ROW or removing out of ROW
<b>C. MAIN HOUSES AND/OR SHOPS AND OTHER STRUCTURES OR PROPERTY</b>			
<i>C.1. Main Structures (Houses and/or Shops)</i>			
Owners of houses/ structures	House/Structure partially affected and remaining portion can be used	a/ Cash compensation at replacement cost for materials and labor for affected portion with no deduction for depreciation or salvageable materials; and  b/ Repair allowance (see G, below).	
Owners of house or combined house/shop structures	Structure totally affected OR Structure partially affected and remaining portion no longer viable	a/ Cash compensation at replacement cost for materials and labor for whole affected structure with no deduction for depreciation or salvageable materials; and  b/ Relocation and subsistence allowances (see G, below).	
Owners of shop	Structure totally affected OR Structure partially affected and remaining portion no longer viable	a/ Cash compensation at replacement cost for whole affected structure for materials and labor with no deduction for depreciation or salvageable materials; and  b/ Relocation allowance (see G, below).	



Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
Tenant	Structure partially affected and remaining portion viable	a/ Cash compensation to the structure owner for the whole affected structure at replacement cost with no deduction for depreciation or salvageable materials; and b/ Repair allowance to the structure owner (see G, below). c/ Tenant may remain with owner's agreement.	Notice to tenants by owner at least two (2) months in advance
	Remaining structure no longer viable, OR Tenant opts to move	a/ Cash compensation to the structure owner for the whole affected structure at replacement cost with no deduction for depreciation or salvageable materials; and b/ Rent allowance equivalent to 6 months' rent or the remaining value of the rental contract (whichever is higher); and, c/ Assistance to find new, affordable rental accommodation; and d/ Relocation allowance (see G, below)	
<i>C.2. Other Structures, e.g., kitchens, toilets, animal sheds, fences, foundations, etc.</i>			
Owners of structures	Partially or totally affected structures or other property	Cash compensation at full replacement cost for materials and labour and with no deduction for depreciation or salvageable materials; OR  Cash or in-kind assistance to relocate affected structures or property; OR  Cash assistance to repair of property to original or better condition (see G, below).	Owners of structures are entitled to compensation regardless of whether or not they possess a) land use rights to the land OR b) construction permits for the structures
	Graves / tombs-yard/cemetery	All costs of excavation, relocation and reburial will be reimbursed in cash to the affected family as prescribed in PPC's regulation.  If the tombs-yard is required, the place and layout of the yard shall be decided by the affected households and the costs for the yard constructions shall be made by the Subproject.	Compensation to be paid directly to DPs.  For ownerless affected graves / tombs, compensation will be given to Commune PC to relocate them to new site.  Graves to be exhumed and relocated in culturally sensitive and appropriate ways according to

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
			<p>Customary rights.</p> <p>The place and layout of the yard shall be consulted with communities and affected peoples</p>
<b>D. ANNUAL AND PERENNIAL CROPS, FRUIT AND TIMBER TREES AND TREE/PLANT FENCES</b>			
Owners of crops and/or trees	Loss of annual crops	If standing crops are ripening and cannot be harvested, cash compensation of un-harvested crops at market values based on the average production over past 3 years.	<p>A minimum of 2 months' notice to harvest crops;</p> <p>Owners of crops and/or trees are entitled to compensation regardless of whether they possess land use rights</p>
	Loss of perennial crops, fruit and timber trees and tree fences	Cash compensation at current market prices given the type, age and productive value of the affected crops and/or trees.	<p>Compensation must equal in value to crops that would be harvested had acquisition not occurred.</p> <p>A market survey shall be carried out when updating the RP or REMDPs</p>
<b>E. COMMUNITY AND PUBLIC RESOURCES/ASSETS</b>			
Village, Ward, Government Unit	<p>Loss of community buildings and infrastructure</p> <p>(School building, Hospital, offices buildings, religious infrastructures etc.)</p>	<p>Repair or restoration to original or better conditions of affected community buildings and infrastructures at no cost to community; OR</p> <p>Replacement, if necessary, at locations identified in consultation with affected communities and relevant authorities, at no cost to community; OR</p> <p>Cash compensation at replacement cost based on current market prices for affected community assets.</p>	<p>If income loss is expected (e.g. irrigation, community forest, community grazing land, income from fishpond), the village, commune or district authority is entitled to compensation for the total production loss (over 3 years); this compensation should be used collectively for income restoration measures and/or new infrastructure.</p>

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
	Publicly owned utilities	Relocation and/or rehabilitation to original or better conditions of affected public utilities, at no cost to public utility; OR  Cash compensation at replacement cost based on current market prices for affected public utilities.	Relocation or reconstruction of public facilities will be done with minimal disruption to public service
<b>F. LOSS OF BUSINESSES AND INCOME SOURCES (NON-LAND BASED)</b>			
<i>F.1. Businesses that relocate and/or rebuild structures</i>			
Households with businesses without tax declarations, e.g., small shops (including un-registered business owners)	Structure totally affected and must be relocated OR Structure partially affected and must be rebuilt.	a/ Cash assistance for loss of income based on the minimum wage in the respective province for the period of 3 months; and  b/ Cash compensation for affected structures at replacement costs; and  c/ Cash assistance for relocation (see G1), if any	Affected businesses will be notified 2 months in advance to relocate and/or rebuild new structures, so as to be able to continue to operate businesses while resettling.
Registered business owners	Structure totally affected and must be relocated OR Structure partially affected and must be rebuilt.	a/ Cash assistance for loss of income equal to 30% of taxable revenues of one year. Average annual taxable revenues determined on basis of financial statements for the past 3 years; And  b/Cash compensation for affected structures at replacement costs.  c/ Cash assistance for relocation (see G1) , if any	
<i>F.2 Employees and Hired Laborers</i>			
Employees and hired laborers	Temporary loss of employment/work while employers re-organize, relocate and/or rebuild.	Cash compensation for lost wages or salary equal to basic wages or salary for each day (or month) they cannot work.	

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
	Permanent loss of employment/work due to land acquisition or relocation of employer.	a/ Cash assistance equal to six months wages or salary <u>or</u> the value of a remaining contract, whichever is higher; and  b/ Assistance to secure new employment including relevant skills training expenses if required.	
<b>G. REHABILITATION ASSISTANCE</b>			
<i>G.1. Relocation Allowance</i>			
All DPs have to relocate	Relocation of household and/or business effects and salvaged and new building materials.	a/ Cash assistance is minimum of VND 3,000,000 for DPs that relocate within the same province; OR Cash assistance up to VND 5,000,000 for DPs that relocate to another province..  b/ Temporary Relocation Assistance for renting temporary resettlement house: The period of assistance and administration of this provision will be as per the Provincial People’s Committee regulations  NB. Not applicable for AHs rebuilding on same plot.	Eligible DPs include owners of residential structures that are totally or partially affected and remaining portion is not viable; non-titled DPs allocated alternative residential land or housing; tenants; and, businesses and eligible land use/management organizations that relocate.  At the time of compensation, the level of allowance will be re-evaluated to ensure the DPs have enough assistance to relocate  The resettlement sites are all close to the affected area and with completed infrastructure
<i>G.2. Transition Subsistence Allowance</i>			

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Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
Owners of residential structures that must rebuild.	Loss of income during period to rebuild.	<p>Cash assistance is equal to 30 kg of rice per month per household member for 12 months valued at market price; If relocation in hard living condition area, assistance is for 24 months.</p> <p>Assistance is equal to 30 kg of rice per month per household member for 03 months if partial rebuilding only is required.</p>	At time of compensation, allowance will be adjusted for inflation to ensure that DPs have sufficient resources to meet basic food and non-food expenditures.
<i>G.3 Repair Allowance</i>			
Owners of partially affected principal structures; AND Owners of other affected structures.	Damage due to dismantling of part of principal structure, or part or all of other structure	Cash assistance based on actual costs to repair the remaining part	
<i>G.4 Infrastructure Development Allowance</i>			
Owners of structures that relocate themselves	Provision of basic infrastructure, e.g., water supply, toilet, access, drainage	Cash assistance equal to the basic cost of investment unit in infrastructure of a standard plot in resettlement site according to Decree 69/2009/ND-CP.	
<i>G.5 Economic Rehabilitation Package</i>			

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
<p>Severely affected DPs, displaced from housing or losing 10 percent or more of their productive, income generating irrespective of tenure status.</p>	<p>Assistance to restore livelihoods and incomes following acquisition of agricultural land or other productive assets</p>	<p>AHs directly cultivate on the affected land to be entitled:</p> <p>(i) Losing from 10 to 30% of agricultural land holding: Cash assistance equal to 30 kg of rice (valued at market price) per month per household member for 3 months, if not relocating; for 6 months if relocating; and for 12 months if relocating in a harsh living condition area;</p> <p>(ii) Losing more than 30% to 70% of total agriculture landholding. Cash assistance equal to 30 kg of rice (valued at market price) per month per household member for 6 months, if not relocating; for 12 months if relocating; and for 24 months if relocating in a harsh living condition area;</p> <p>(iii) Losing more than 70% of total agriculture landholding Cash assistance equal to 30 kg of rice (valued at market price) per month per household member for 12 months, if not relocating; for 24 months if relocating; and for 36 months if relocating in a harsh living condition area; AND</p> <p>(iv) In-kind assistance to be decided in consultation with eligible DPs. Forms of assistance may include, but are not limited to, agricultural extension assistance, and training for non-agricultural occupations. And</p> <p>(v) Participating in income restoration programs (RP or REMDP).</p>	<p>Value of in kind assistance to be determined during RP or REMDP implementation.</p> <p>Income Restoration Programs will be designed during subproject implementation with the assistance of an agency specialized in livelihoods/labor or vocational assistance and with the active involvement of the AHs.</p> <p>RP or REMDP shall be prepared during the RP or REMDP updating following the needs assessment of the DPs</p>
	<p>Assistance for job changing and creation.</p>	<p>Cash assistance equal to 1.5 time of compensation value for affected for acquired land area but not exceed 5 (five) times of land quota in locality.</p> <p>If DP has demand for training, he/she will be entitled to a free training course</p>	<p>Eligibility will be confirmed during DMS.</p>

*G.6. Special allowance for social and economically vulnerable households*

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Resettlement and Ethnic Minority Peoples Development Framework

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
Vulnerable DPs (the poor, war invalid person, woman headed household, the elderly)	Assistance to the poor and vulnerable households to improve their social and economic conditions.	For the poor households, cash assistance equal to 30 kg of rice (at market price) per each family member per month for at least 6 months.  For other vulnerable DPs, assistance of VND 2,000,000 per household to improve their social and economic conditions	Eligible households are those who are classed as vulnerable under MOLISA definition.
<i>G.7 Assistance for houses/infrastructures falling in the ROW</i>			
All DPs affected with infrastructures	<i>Infrastructures below the 220Kv line within the ROW</i>	Support provided to protect the infrastructures affected with necessary equipment as per regulations	The support level for protection will be the provincial regulations
<i>G.8 Bonus to DPs that relocate on time</i>			
All DPs that relocate		Bonus Allowance if land is handed over in a timely manner according to PPC's regulation.	

## 3. Socio-Economic Information

### 3.1 Census and Inventory of Loss (IOL)

44. The census and Inventory of Loss (IOL) will collect data on the affected persons and assets from 100% of DPs following basic design. The data collected during the IOL as well as SES will constitute the formal basis for determining DP entitlements and levels of compensation. For each DP, the scope of the data will include:

- Total and affected areas of land, by type of land assets;
- Total and affected areas of structures, by type of structure (main or secondary);
- Taking of photos of the assets to be affected together with the respective DPs
- Legal status of affected land and structure assets, and duration of tenure and ownership;
- Quantity and types of affected crops and trees;
- Quantity of other losses, e.g., business or other income, jobs or other productive assets; estimated daily net income from informal shops;
- Quantity/area of affected common property, community or public assets, by type;
- Summary data on DP households, by ethnicity, gender of head of household, household size, primary and secondary source of household income vis-a-vis poverty line, income level, whether household is headed by women, elderly, disabled, poor or indigenous peoples;
- Identify whether affected land or source of income is primary source of income; and
- DP knowledge of the subproject and preferences for compensation and, as required, relocation sites and rehabilitation measures.
- Information dissemination to DPs about the principles of Land Acquisition and compensations according to ADB policies and national and provincial Decrees and explanation about the cut off date

### 3.2 Socio Economic survey (SES)

45. At a minimum, the socio-economic survey (SES) will collect information from a sample of 10% of displaced people and 20% of severely affected households, disaggregated by gender and ethnicity. The purpose of the socio-economic survey is to provide baseline data on affected households to assess resettlement impacts, and to be sure that proposed entitlements are appropriate, and to be used for resettlement monitoring. The scope of data to be collected includes:

- Household head: name, sex, age, livelihood or occupation, land holding, income, education and ethnicity;
- Household members: number, livelihood or occupation, school age children and school attendance, and literacy, disaggregated by gender;



- Living conditions: Housing, access to water, sanitation and energy for cooking and lighting; ownership of durable goods; and
- Access to basic services and facilities

### 3.3 Social Impact Assessment

46. A Social Impact Assessment is an activity to assess potential project component impacts, both positive and adverse, on Ethnic Minorities. The social impact assessment will be done in a gender-sensitive way and in consultation with EM communities. Qualified and experienced experts will be used to conduct the social impact assessment. Field-based research methods will include focus groups discussions, interviews with key informants, household surveys and secondary data sources.

47. The Social Impact Assessment will include:

- (i) Baseline socio-economic profile of the project area and impact zone, including identifying all EM groups and affected EM groups; and the current access EMs has to social and economic services. Specifically for the transmission lines project crossing mountainous areas, a project component profile would include information on:
- (ii) Ethnicity; occupation; income; education; access to water for multiple purposes (e.g., drinking, cooking, bathing, washing, and latrine); use of latrine; sanitation and hygiene condition, hygiene behaviours; water borne diseases; poverty rate and situation; expenditure on water and sanitation and willingness to pay.
- (iii) Social and cultural aspects of water and sanitation behaviour.
- (iv) Period of time living in the sub-project area; number of households or communities that have resettled in the area.
- (v) Poverty programs of the Government and Non-Government organizations that are operating in the sub-project area.
- (vi) Language and communication mechanisms: (ii) Identification and analysis of short and long-term impacts; direct and indirect impacts; and positive and negative impacts for EMs.

48. Using information on the proposed power station or transmission line sub-project, impacts on EMs will be determined including:

- (i) Resettlement impacts, land acquisition; temporary construction impacts and disruption of business, production, sites of cultural value; and transport routes.
- (ii) Employment opportunities (short and long term).
- (iii) Benefits of water and sanitation in the project area.

49. Recommendations on the strategies and activities to address EM issues, such as the optimization of culturally appropriate, gender and intergeneration inclusive benefits; and measures to avoid, minimise and mitigate negative impacts. These might include measures to maximize the project's overall benefit of water supply and sanitation for EMs, and other poverty reduction activities or exploring alternative designs to avoid displacement.

50. The social impact assessment must:

- (i) Be culturally appropriate and gender sensitive.
- (ii) Consider Vietnamese laws and obligations under international laws to which Vietnam is a signatory.

- (iii) Give full consideration to EM-preferred options in relation to the provision of project benefits and the design of mitigation measures.
- (iv) Be detailed commensurate to the scale of expected impacts.

51. If the social impact assessment indicates that the proposed project will have significant impacts, positive or negative, on Ethnic Minorities, the EA will prepare an **Ethnic Minority Development Plan or a Resettlement and Ethnic Minority Development Plan** relevant to the social impact assessment and in consultation with EMs.

### 3.4 Issues related to Ethnic minorities

52. Ethnic minority people are closely tied to land, forests, water, wildlife, and other natural resources, and therefore special considerations apply if the project affects such ties, especially in the mountains where the transmission lines are to be constructed. In this situation, when carrying out the social impact assessment and preparing the REMDP, the EA will pay particular attention to the following:

- (i) The customary rights of the EM Peoples, both individual and collective, pertaining to ancestral domains, lands, or territories that they traditionally own or customarily use or occupy, and where access to natural resources is vital to the sustainability of their cultures and livelihood systems;
- (ii) The need to protect such ancestral domains, lands, and resources against illegal intrusion or encroachment;
- (iii) The cultural and spiritual values that the EM Peoples attribute to such lands and resources;
- (iv) The EM Peoples' natural resources management practices and the long-term sustainability of such practices; and
- (v) The need to rehabilitate the livelihood systems of EM Peoples who have been evicted from their lands.

53. If the subprojects involves activities that are contingent on establishing legally recognized rights to lands and territories that EM Peoples have traditionally owned or customarily used or occupied, such as land titling projects, or the acquisition of such lands, the borrower/client will integrate an action plan for the legal recognition of customary rights to such lands, territories, and ancestral domains in the REMDP.

54. The action plan is normally carried out before project implementation, but in some cases it may need to be formulated concurrently with the project itself. Such legal recognition may take the following forms: (i) full legal recognition of existing customary land tenure systems of EM Peoples, or (ii) conversion of customary usage rights to communal and/or individual ownership rights. If neither option is possible under national law, the REMNP will include an action plan for legal recognition of perpetual or long-term renewable custodial or user rights.

55. In addition, for projects with potential impacts on EM Peoples, the EA will ensure their meaningful consultation and facilitate their informed participation on matters affecting them directly, such as proposed mitigation measures, sharing of project benefits and opportunities, and implementation arrangements.

56. EM Peoples may be particularly vulnerable when project activities are developed. If a subproject involves any of the following activities: (i) commercial development of cultural resources; (ii) physical displacement of ethnic minorities; and (iii) commercial

development of the natural resources within the ethnic minority lands, consent of affected EM Peoples communities through collective expression or through individuals and/or their recognized representatives (broad community support) for the project activities must be obtained. Such broad community support may exist even if some individuals or groups object to the project activities.

57. Where broad community support has been ascertained, the EA will provide documentation that details the process and outcomes of consultations with EM Peoples and EM Peoples' organizations. The EA will submit documentation of the engagement process to ADB for review and for ADB's own investigation to assure itself of the existence of broad community support for the project activities. ADB will not finance the project if such support does not exist. (Details to be found in the ADB SPS SR 3).

### **3.5 Gender Consideration**

58. Gender and social economic analysis, gender division of labour related to the potentially affected people in the specific subproject area must be conducted. Based on these analyses, special attention will be given to address women's concerns during the preparation of RP or REMDP, updating process and implementation. Participation and involvement of the Women's Union at all levels should be encouraged especially for supervision and monitoring of the resettlement process and its implementation, and to help inform communities and women's groups as to subproject potential impacts. Insurances should be given that women have full and equitable access to the subproject's resources and benefits including income restoration programmes and skills training. Adequate resources including a financial and social safeguard specialist must be allocated to support the resettlement process and its implementation. Women must be present during consultations made when conducting the detailed measurement survey and visit to resettlement site. This is to ensure that all information and opinions can be collected and that they include the women's perspectives. Names of both husband and wife must be in the land use rights certificates. Women must be present when compensation payments are made to ensure that any decisions regarding use of compensation monies will be open to decisions made by husband and wife. Sex-disaggregated data must be collected in the socio-economic survey and inventory of loss.

59. Ethnic Minority women face female prejudices, minority status, and isolation in mountainous locations and often face heightened cultural barriers restricting their participation in decision-making. Women in the project area face situation of low income from agricultural production and lacking jobs to do at the leisure times in between two rice crop seasons. Therefore, many of them have to leave home working in other provinces or big cities for increasing incomes. The percentage of women participating in leadership position at all levels is low in compared to men, because male chauvinism and backward manners and customs are still existed in the society in general and the project area in particular. Injustice behaviour to women especially women in the remote, mountain communes are still happened in the society and in the families.

60. Key Gender issues in the management of the subprojects include the need to ensure that generated employment and income raising activities, both during project's component construction and in the post construction period, are equally available to women and to men; that measures are taken to prevent the spread of sexually-transmitted diseases and human trafficking and that measures are taken to allow women to maximise the new opportunities.

### 3.6 Replacement Cost Study (RCS)

61. This evaluation report will describe results of property valuation and cost of affected structures, crops and trees within a Subproject area.

62. **Objective:** The study aims to establish compensation rates for structures, trees, and other non-land based income (e.g., businesses, fishponds, etc.) to ensure full restoration value of Subproject-affected/expropriated assets.

63. **Methodology:** Compensation is based on the principle of replacement cost. Replacement cost is the amount calculated before displacement which is needed to replace an affected asset without deduction for taxes and/or costs of transaction as follows:

- i. Productive Land (agricultural, aquaculture, garden and forest) based on market prices that reflect recent land sales, and in the absence of such recent sales, based on productive value;
- ii. Residential land based on market prices that reflect recent land sales, and in the absence of such recent land sales, based on similar location attributes;
- iii. Houses and other related structures based on current market prices of materials and labour without depreciation nor deductions for salvaged building materials;
- iv. Annual crops equivalent to current market value of crops at the time of compensation;
- v. For perennial crops and trees, cash compensation at replacement cost is equivalent to current market value given the type, age and productive value (future production) at the time of compensation. Timber trees based on diameter at breast height at current market value.

64. The evaluation of replacement costs will be carried out based on information collected from both desk research and field work including surveys and data collection from people in the affected and adjacent areas, both those affected and those not affected.

65. Desk research will focus on relevant publications, decisions of Government authorities at national, provincial, city and district levels. However, these materials will play the supporting role only. As the work is aimed at obtaining reasonable replacement costs for different types of affected assets, market evidences are the factors, which most strongly base the formulation of these costs. Surveys with people in the affected area, both those, whose assets are affected by the subproject, and those whose assets are not, will produce reliable data for assessing the real market value of the assets affected.

## 4. Consultation, participation and Information disclosure,

### 4.1 Public Participation and Consultation

66. The consultative process will include not only affected people, but also representatives of local governments in the subproject areas, community leaders of host communities, civil society organizations such as nongovernment organizations and members of local people's organizations (e.g., Women's Union, Fatherland Front and Farmer's Association) and, as relevant, members of ethnic minority communities. Special attention will be paid to identifying the needs of vulnerable groups such as the poorest, ethnic minorities, women and elderly, and ensure that their views are considered in the formulation of the RP or REMDP.

67. Participation provides for the occasion and the process by which stakeholders influence and become co-responsible for development initiatives and decisions that affect them. Through participation, the needs and priorities of the local population are expressed and can be addressed in subproject and resettlement planning. The affected households and other stakeholders will continue to be consulted during RP or REMDP updating and implementation, following a two-way process – information dissemination and gathering of feedback and suggestions.

68. All the consultation events with different stakeholders and at different phases of the subproject will be documented in writing. The results of the participation and consultation during the preparation up to implementation of the resettlement process will be made available to the subproject authorities and the monitoring cell.

69. Affected households will be notified at least 6 months prior to the date that the land will be acquired by the Subproject

70. Public Consultations: A first public consultation with the affected households and other stakeholders will be held prior to the start of the inventory of losses (IOL), as a way of introducing the Subproject and the resettlement policy to the local population. Focus groups are to be held with representatives of households affected by land acquisition and with all households affected by lose of a dwelling. During the focus groups meetings participants can express their concerns that should be addressed in the resettlement process and on their preferences for compensation and income restoration.

71. The relevant information about the subproject will be provided in a timely manner, in an accessible place and in a form and language(s) understandable to the affected EM peoples and other stakeholders. If the EM Peoples are illiterate, other appropriate communication methods will be used

72. A second Public Consultation will take place to share the results of the IOL, the entitlements and the resettlement plan. This public consultation will include discussing the results of the impacts survey with the affected households and getting feedbacks and suggestions on their compensation and entitlements, including income restoration and relocation options.

73. Further public consultations will continue during implementation. These consultations should take place (i) following completion of the DMS and review and updating of unit costs for affected assets, where the CARC consults with the affected households individually and/or in group in connection with the updating of compensation and entitlements and, as warranted, income restoration programs and relocation plans; and (ii) following approval of the updated RP or REMDP, to present to the affected households in the communes (i.e., also referred to as “final disclosure meeting”) the validated/updated list of affected people, compensation and entitlements due to them, and schedule of delivery of compensation and entitlements.

74. During the meeting, information will be presented in verbal and graphic format. DPDPs will be provided with the information in a written form, with extra copies made available at district and commune offices throughout the subproject area. Adequate opportunities will be provided during the meeting for DPDPs to respond with questions and comments (See Annex 2 Sample Project Information Booklet). The DCRCs compile a list of DPs present at the meeting, as well as a complete record of questions, comments, opinions, decisions and follow-up actions that arise from the meeting. A report will be prepared and submitted to the PPMBs.

75. The information to be provided to DPs during the consultation meeting shall include:

- (i) Description of the sub-subproject.
- (ii) Maps showing the extent of land and property acquisition.
- (iii) Overall RP or REMDPRP or REMDP or REMDP policy, i.e. the primary objective that DPDPs are able to regain their pre-subproject living standards or better and an assurance that RP or REMDPRP policies and procedures are designed to safeguard the rights of the DPs.
- (iv) DPs’ entitlements and rights to compensation by category of AH, e.g. those with and without legal documentation, those losing property (houses, businesses) and/or agricultural land.
- (v) Compensation standards (including method of calculation and compensation rates) and options, e.g. cash or land for land; relocation options (if applicable); and, opportunities for subproject-related employment.
- (vi) Organizational responsibilities for the land acquisition process, including the provincial and local government departments and agencies involved in LAR, their responsibilities and contact details so that DPs can obtain more information.
- (vii) The grievance redresses procedure for dealing with DP complaints.
- (viii) DPs’ rights to participate in, and be consulted about, all aspects of LAR planning and implementation, particularly with reference to their preferences for resettlement, compensation and rehabilitation measures, and special measures for vulnerable DPs.
- (ix) The implementation schedule for payments of compensation and other resettlement activities including the time table for site clearance (with an assurance that this will only occur after full payment of compensation), construction activities and monitoring procedures.

76. **Consultations with Severely Affected and Vulnerable AHs:** The DCARCs and the PPMBs will carry out detailed consultations individually and/or in small groups with



severely affected, female household heads and other vulnerable households, in order to determine their specific requirements and preferences for rehabilitation assistance and, as required, relocation..

77. The PPMBs will work closely with the Resettlement Committees and local officials in the districts and communes to carry out a comprehensive consultation process including regular meetings with DPs, their representatives and local authorities. Specific key activities will be summarized as table below:

**Table 4-1 : Summary results of consultation meetings**

<b>Time</b>	<b>Location</b>	<b>Consultation with</b>	<b>Topics</b>	<b>Feedback</b>
<b>First consultation</b>				
<b>Second consultation</b>				

#### **4.2 Consultation with Ethnic Minorities**

78. Broad community support will be obtained when a subproject has the potential to create any of the following impacts on Ethnic Minority Communities: (i) commercial development of cultural resources; (ii) physical displacement of ethnic minorities; and (iii) commercial development of the natural resources within the ethnic minority lands under use that that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples.

79. Broad community support refers to a collective expression by the affected Indigenous Peoples communities, through individuals and/or their recognized representatives, of broad community support for the project activities. Such broad community support may exist even if some individuals or groups object to the project activities. Only if a broad community support is ascertained ADB will finance and support the project activities. The documentation of broad community support will include formal agreements reached with Ethnic Minority Peoples communities and/or Ethnic Minority Peoples’ organizations

#### **4.3 Disclosure**

80. Consistent with the requirements of ADB SPS –a public information booklet (PIB) will be prepared and translated into Vietnamese (Annex 10.2). It will be distributed to the affected households at the second Public Consultation. The following information will be provided in the PIB: (i) a brief background of the Subproject, specifically the civil works to be undertaken and the adverse social impacts; (ii) IOL results, with a statement that detailed information is available at the commune office; (iii) bases used for asset valuations, stating also that detailed information is available at the commune office; (iv) the entitlements due to the affected households; (v) timing of payments and the schedule of displacement; (vi) grievance redress mechanism; and (vii) contact persons at EA and local authorities.

81. Disclosure of RP or REMDP: The PPMBs in combination with DCARCs will make available the approved RP or REMDP including all attachments in Vietnamese at commune offices and the DCARCs’ office.

82. The draft RP or REMDP will be uploaded on the ADB website. Following approval of the draft RP or REMDP by EA and ADB, the final RP or REMDP will again be disclosed to the affected households and uploaded on the ADB website.

83. The updated RP or REMDPs (draft and approved) to be prepared following detailed design will likewise be disclosed to the affected households and uploaded on the ADB website.

84. Information disclosure is an on-going process beginning early in the subproject cycle and continuing throughout subproject preparation and implementation. The process must provide timely information to communities in order that they may meaningfully contribute to subproject design, decisions and also mitigation. Provision of timely and accurate information will avoid misinformation and inaccurate rumours from circulating in communities. During consultations particular attention is given to vulnerable subgroups in the community to ensure their understanding and active participation. For public information, an information booklet with questions and answer should be used and distributed during consultation to explain the subproject and the entitlements see sample PIB (Project Information Booklet) in Annex 10.2. In accordance with both ADB and GoV policy (contained in Decree 69 Articles 29, 30 and 31 and 2) the PPC and DPC must ensure that public notice is given and details of the approved draft resettlement plan and/or ethnic minority development plan and/or framework are disseminated before the subproject fact finding mission by the ADB. This draft will also be disclosed on the ADB website. Following the census of affected persons, the final resettlement plan, as endorsed by EVN / NPT and ADB, is further disseminated to the affected communities and posted on the ADB website. Any updates or revisions to the final resettlement plan must be further disseminated to affected communities and again, posted on the ADB website.

85. The PPMBs, with assistance from relevant provincial and district agencies, will conduct a series of public meetings to provide information regarding subproject activities and the proposed resettlement and compensation arrangements as specified in the entitlement matrix. These public meetings will be needed to: (i) disseminate information on inventory and pricing results, (ii) inform the DPs on amounts of compensation and supports of each affected household, (iii) to listen to their feedback and suggestions, and (iv) for revising or adjusting the inaccurate data, if any. It is important that DPs are informed well in advance of the date; time and location of each meeting, and those reminders are also provided. It is essential that these meetings enjoy maximum participation as this will reduce misunderstandings and potential for conflict. For removal or relocation of tombs/graveyards or other religious or cultural significant items, special consultation should take place and a record of consultation should be made available which includes: (i) nature and type of tombs; (ii) how old are the tomb and status of land where the tombs are located; (iii) new location and status of land; (iv) if the tombs are owned by ethnic minorities or not and the implications of impact on the religious and cultural sentiments of the community; (v) agreed ritual process, cost and time of removal of tombs, and other arrangements as deemed necessary.

86. In accordance with Decree 69/ND-CP Article 30(2b) the posting must be recorded in official minutes and confirmed by the CPC, the Commune Fatherland Front and DPs. As per Decree 69/ND-CP Article 30 Clause 3(a), following expiration of this period the agency in charge of compensation will summarise all opinions and comments received, including numbers of DPs and stakeholders who agree and disagree, with the compensation and land acquisition and assistance offered in the resettlement plan. Interviews with DPs will be conducted in order to check the adequacy of compensation prices issued by the provinces. Further public consultations will be carried out during the implementation stage with a focus on specific activities including assessment of



compensation, acquisition of land, and design of rehabilitation assistance planning. These measures are undertaken to ensure that DPs are satisfied with the compensation arrangements and will not object to the disruption and that they will not suffer enduring negative impacts due to the subproject and be able to fully restore and further improve their livelihoods.

#### **4.4 Preparation and Submission of Subproject RP or REMDP**

87. The RP or REMDPs for the subproject will be submitted to the NPT for review before submitting to ADB for review and approval. The RP or REMDP shall follow the provisions and procedures specified in the RP or REMDP.

88. The RP or REMDP must be updated following the completion of the detailed designs and conducting of the DMS. This will provide up-to-date and accurate figures regarding the scope of impacts, identification of DPs and severity of impact, as well as an updated compensation calculation. The RP or REMDP should be reviewed to update any changes in market prices for replacement values and would need to be reviewed again at the time compensation is due for payment. If rates and prices are found to be out of date, revised updated costs based on the latest market rate must be used. Also in the RP or REMDP updating process, the IRP (Income Restoration Programme) will be developed. Affected people must be consulted before finalisation of the updated RP or REMDP. The initial RP or REMDPs and the updated RP or REMDPs will be sent to ADB for approval and uploaded to ADB's website. During the DMS ethnic minority people may be identified and if their number is significant an Ethnic Minority Development Plan (EMDP) would be prepared separately.

## 5. Compensation, Income Restoration and Relocation

### 5.1 Relocation Strategy

89. The District People's Committee/communes in the affected area will be responsible to propose a relocation site for affected households having to move. Households will be consulted on the relocation option. The relocation strategy will:

- (i) Identify land in a setting similar to the land that is recovered.
- (ii) The relocation strategy will ensure that DPs are provided with sites that have access to infrastructure and basic services at a level similar to their previous location.
- (iii) If necessary to relocate a number of households, the District will designate a new settlement area. The new settlement area will be provided with infrastructure and basic services. The District will design the site and the costs will be covered by the executing agency.
- (iv) The District will confirm the relocation strategy in writing and it will be described in the RP or REMDP.

90. Affected households will not be displaced until these households are compensated in full and provided the necessary assistance as per the subproject entitlements and the income restoration programme in place. Moreover, AHs losing entire houses and who opt to shift to subproject relocation sites will not be displaced until the relocation site is ready for occupancy.

91. In case of Physical Displacement of EM Peoples; The EA will explore to the maximum extent possible alternative project designs to avoid physical displacement of Ethnic Minority Peoples that will result in adverse impacts on their identity, culture, and customary livelihoods. In exceptional circumstances, when avoidance is impossible, the EA will prepare a plan that could be combined with a resettlement plan. Such a combined plan needs to be compatible with the EM Peoples' cultural preferences and will include a land-based resettlement strategy. Where possible, the plan will allow the affected Ethnic Minority Peoples to return to the lands and territories they traditionally owned or customarily used or occupied if the reasons for their relocation cease to exist. The plan should include provisions to rehabilitate such lands, if needed.

## 5.2 Income Restoration Strategy

92. In order to assist DPs restore livelihoods and income levels, the Subproject will provide an income restoration programme that is adapted to the needs and situation of the DPs as determined in the socio-economic surveys. The DPs covered by the income restoration programme are identified in the entitlement matrix.

93. The scope of the entitlements includes an allowance to cover living costs during a period of reduced income while DPs restore current livelihood and income-generating activities or make a transition to new income-generating activities. In-kind assistance to strengthen or initiate income-generating activities will also be provided. n-kind assistance to strengthen or initiate income-generating activities will be decided in consultation with local authorities and DPs eligible for the income restoration, and will be fully developed in the resettlement plans for each subproject. Forms of assistance may include, but are not limited to:

- (i) Agricultural extension assistance, to improve the productivity of remaining or newly allocated agricultural land and fishponds.
- (ii) Assistance to restore or replace affected tree plantations, provision of seedlings and technical assistance to help severely affected DPs to restore income from cash-crop tree plantations.
- (iii) Support for income-generating activities including appropriate technical support, assistance in vocational planning, small business planning, financial planning and to access and utilise credit, and other measures to promote existing or new income-generating activities.
- (iv) Subproject-related employment whereby priority will be given to severely affected and vulnerable DPs for work on construction.

## 6. Grievance Redress Mechanisms

94. In order to ensure that all DPs' grievances and complaints on any aspect of land acquisition, compensation and resettlement are addressed in a timely and satisfactory manner, and that all possible avenues are available to DPs to air their grievances, a well defined grievance redress mechanism must be established. All DPs can send any questions to implementation agencies about their rights in relation with entitlement of compensation, compensation policy, rates, land acquisition, resettlement, allowance and income restoration. Otherwise, all DPs are not ordered to pay any fee during the grievance and complaints at any level of trial and court. Using the Project Grievance Redress Mechanism, complaints will pass through 3 stages described below. The complainant can, if necessary, take the matter to a court of law. It is noted that the Project Grievance Redress Mechanism does not impede access to the country's legal system, meaning that an aggrieved person is free to access a court of law even at the initial stage of his/her grievances. The Executing Agency (EA) will shoulder all administrative and legal fees that might be incurred in the resolution of grievances and complaints.

95. **First Stage, Commune People's Committee:** An aggrieved affected household may bring his/her complaint before any member of the Commune People's Committee, either through the Village Chief or directly to the CPC, in writing or verbally. It is incumbent upon said member of CPC or the village chief to notify the CPC about the complaint. The CPC will meet personally with the aggrieved affected household and will have 15 days following the lodging of the complaint to resolve it. The CPC secretariat is responsible for documenting and keeping file of all complaints that it handles.

96. **Second Stage, District People's Committee:** If after 15 days the aggrieved affected household does not hear from the CPC, or if the affected household is not satisfied with the decision taken on his/her complaint, the affected household may bring the case, either in writing or verbally, to any member of the DPC or the DRC. The DPC in turn will have 15 days following the lodging of the complaint to resolve the case. The DPC is responsible for documenting and keeping file of all complaints that it handles and will inform the DRC of any determination made. The DRC must ensure this decision is notified to the DP.

97. **Third Stage, Provincial People's Committee:** If after 15 days the aggrieved affected household does not hear from the DPC, or if the affected household is not satisfied with the decision taken on his/her complaint, the affected household may bring the case, either in writing or verbally, to any member of the PPC. The PPC has 15 days within which to resolve the complaint to the satisfaction of all concerned. The PPC is responsible for documenting and keeping file of all complaints that reaches the same.

98. Where complaints about administrative decisions or administrative acts regarding land management are settled for the first time by the presidents of the People's Committees of rural districts, urban districts, provincial capitals or provincial towns, but the complainants disagree with the settlement decisions, they are entitled to initiate lawsuits at people's courts or continue to complain with presidents of the provincial/municipal

People's Committees. In case of complaining with provincial/municipal People's Committee presidents, the decisions of the provincial/municipal People's Committee presidents shall be the final ones (According to clause 2, Article 138, Land Law 2003);

99. The above grievance redress mechanism needs to be disclosed and discussed with the DPs to ensure that the DPs understand the process. PPMBs and DCRCs are responsible to follow up the grievance process from the DPs. Records of the complaints will be recorded and monitored by the project and the external independent monitor.

## 7. Institutional Arrangements and Implementation

### 7.1 Institutional Arrangements

100. Implementation of the resettlement plan requires the participation of relevant agencies from the Central to province, district, and commune level. The Executing Agency has the overall responsibility for implementation of the RP or REMDPs. District Compensation, Assistance and Resettlement Committees (DCARCs) will be established at district level according to Decree 197/2004/NĐ-CP and Decree 69/2009/NĐ-CP.

#### 7.1.1 Institutional Features at Central level

101. MOIT through NPT is the EA, through its PPMBs (NPPMB, SPPMB) to manage the resettlement issues. The PPMBs are implementing agencies mandated for the overall management and supervision of subprojects funded by Official Development Assistance (ODA).

102. NPT and the PPMBs have extensive experience in delivering ADB funded projects. Notwithstanding this, additional capacity support will be provided within each PPMB to prepare and update the RP or REMDPs as well as ensuring implementation of resettlement in accordance with the approved documentation. This support will comprise one full-time qualified and experienced social safeguard specialist to manage the resettlement related issues. In addition to this support within the PPMBs, the PPMBs will be responsible for the hiring of project implementation consultants (PICs) for each subproject. Each PIC will be required to include a qualified and experienced social safeguard consultant who provides guidance and instruction for the PECCs.

103. No civil works in any geographical area will commence until all compensation and relocation entitlements including any transitional and/or livelihood related entitlements have been paid in full to the satisfaction of the DPs.

104. The NPT will:

- i Provide overall management and coordination of the subproject;
- ii Liaise with IAs to carry out all subproject components;
- iii Coordinate with ADB in providing resettlement consultant services for the subproject;
- iv Support the NPPMB and SPPMB for updating RP or REMDPs of the subproject's components;
- v Consolidate subproject progress reports on land acquisition and resettlement submitted by the NPPMB and SPPMB for relevant ministries and ADB; and
- vi Recruit and supervise the external independent organisation (or consultants) for external resettlement monitoring.

105. Role of PPMB

- i. Actively participate in the RP or REMDP updating and implementation activities in collaboration with the concerned organization at the Province, District and Commune levels;
- ii. Liaise with the Province People's Committee (PPC) to facilitate the establishment of the CARB at the provincial/city and district levels.
- iii. Provide an orientation, to the concerned People's Committees of the province/city, districts, and communes, the CARB and related groups on the project, its Resettlement Policy,
- iv. Process flow, and on the specific tasks of these groups relative to the updating and implementation of the RP or REMDP;
- v. Take the lead in the public disclosure of the Project RP or REMDP in coordination with the concerned People's Committees, and participate in project information dissemination and holding of consultation meetings with AHs and other stakeholders;
- vi. Monitor grievances related to the project and calls the attention of concerned government offices where complaints have remained outstanding beyond prescribed action periods;
- vii. Design and implement an internal monitoring system that shall capture the overall progress of the RP or REMDP updating and implementation; and prepare quarterly progress reports for submission to NPT and ADB;
- viii. Hire and closely coordinate with an External Monitoring Agency (EMA) that shall perform a third-party monitoring and evaluation of the RP or REMDP updating and implementation

### **7.1.2 Institutional Features at Provincial Level**

106. Provincial People's Committee. The main responsibilities of the PPC in each province include: (i) establishment and mobilization of Provincial Compensation and Resettlement Board (PCARB) (ii) organization and mobilization of all organizations and individuals concerning compensation, support and resettlement policies and ground clearance according to the land recovery decisions of competent State bodies; (iii) updating the unit costs to reflect the replacement cost of subproject-affected private and public assets; (iv) planning resettlement arrangements, job change training plans according to their assigned competence; (v) authorizing the DPC to approve compensation, assistance support to DPs; (vi) providing guidance to concerned agencies on the neutral settlement of citizens' complaints, denunciations related to compensation, support and resettlement; (vii) authorising the DPC to apply coercion to cases of deliberately failing to abide by the State's land recovery decisions; and (viii) responsible for the resettlement budget.

### **7.1.3 District and Commune Levels**

107. District People's Committee. The DPC will be responsible for the following: (i) extension of support for updating and preparation as well as implementation of the RP or REMDPs; (ii) review and submit all RP or REMDPs to PPC as endorsed by DCARC; (iii) review the accuracy of and validate the cost estimates for compensation and assistance; (vi) acquisition of Land Use Rights Certificates (LURCs) for households and individuals who have lands and/or houses entirely-recovered; (vii) adjustment of LURCs for households and individuals whose lands and houses have been partially affected; (viii) assist in the redressed of complaints and grievance from DPs; (ix) concurrence with the schedule of RP or REMDP implementation and monitor the progress thereon; and (x) mobilization of the respective DCARC that will appraise the compensation and assistance to DPs; as well as (xi) the provisions of lands to DPs.

108. District Compensation and Resettlement Committee: The responsibilities of the DCARC will be the following: (i) organize and carry out resettlement activities in the district on behalf of the DPC; (ii) assist in the DMS, public consultations and disclosure activities; (iii) review and submit to DPC proposed compensation, assistance and resettlement alternatives; (iv) assist in the identification and allocation of land for the DPs; (v) along with the CPC, assist PECCs in the timely delivery of compensation payment and other entitlements to DPs; and (vi) assist in the resolution of complaints and grievances:

- (i) The dissemination of the Public Information Brochure and other publicity material; ensuring that DPs are aware of the LAR process.
- (ii) Planning and carrying out the DMS and the disbursement of compensation payments.
- (iii) The identification of severely affected and vulnerable DPs and the planning and implementation of rehabilitation measures for these DPs.
- (iv) Help identify any resettlement sites and new farming land for DPs who cannot remain in their present location.
- (v) Assist in the resolution of DP grievances.
- (vi) Facilitate the work of the agency appointed to undertake the external monitoring.

109. Commune People's Committee. The CPCs will assist the PPMBs and the DCARC in the following tasks: (i) remind the DPs about the compensation plan and the process of delivery, income restoration plans, relocation strategies and land clearance requirements based on the approved RP or REMDPs; (ii) maintain the list of eligible DPs that will be provided after the DMS has been conducted; (iii) assign commune officials to extend assistance in the update and/or preparation as well as the implementation of the RP or REMDPs; (iv) identify replacement lands for the DPs; (v) sign the Agreement Compensation Forms along with the DPs; and (vi) assist in the resolution of grievances and in other related-resettlement activities and concerns.

## **7.2 Implementation**

110. The implementation process will be as follows:

- (i) Establishment of the DCARCs. The PPC will establish DCARCs for the subprojects, and entrust tasks to relevant agencies and entities.
- (ii) Land clearance/boundary setting for the Subproject. After receiving the PPC and DPCs in revoking land and handing over land to the N/SPPMB for implementing the subprojects, N/SPPMB will cooperate with the provincial Department of Natural Resources, Environment and the specialised cadastral agency having a contract with N/SPPMB to determine the subproject land clearance red line and setting out boundary at the field, handing over land to implement resettlement tasks for the displaced persons, in order to clear land for the subproject. Relevant Offices of Natural Resources, Environment of districts and Commune People's Committees of the subproject will assign their staff working as members of DCARCs to implement this task.
- (iii) Engagement of External Monitoring Agency: NPT will engage the services of an external monitoring agency to carry out independent monitoring and evaluation of RP or REMDPs preparation and implementation activities. Semi-annual progress reports will be submitted by the EMA to NPT and ADB.
- (iv) Information campaign before DMS. According to Decree No.181/2004/ND-CP, before land acquisition, within 90 days in case of agricultural land and 180 days in case of non-agricultural land, the DCARCS must send written notices to affected



- land owners in respect of reasons for land acquisition, time and plan of displacement, resettlement options, land clearance and resettlement.
- (v) Before census and detailed measurement survey, PPMBs in cooperation with local authorities of districts and communes will provide subproject information to residents in the subproject area. Information will be broadcasted via the public address system of the locality in combination with other multi-media such as radios, press, television, brochures or letters delivered to households to be open posted in public areas.
  - (vi) Orientation meetings will be held in the subproject affected commune to notify the affected community about the scope and scale of the subproject, impacts, policies and rights for all kinds of damages, implementation schedule, responsibilities for organisation, and complaint mechanism. Brochures including (images, photos or books) related to subproject implementation will be prepared and delivered to all affected communes in the meetings.
  - (vii) Conduct of Replacement Cost Survey by a Qualified Agency. A qualified agency will be engaged by NPT to assist PPC in determining the current market price under normal condition of land and non-land assets. If there is a significant difference between compensation price and market price as per replacement cost survey carried out by a qualified agency, PPC will update the compensation unit price according to regulations and implementation guidance of Decree No.197/2004/CP and 17/2006/ND-CP.
  - (viii) Detailed Measurement Survey: DMS will be undertaken once detailed design is finalised. These surveys will be the basis for the preparation of compensation plan and for preparation of the RP or REMDPs.
  - (ix) Preparation of Compensation Plan: DCARCs are responsible for applying prices and preparing compensation tables for each affected commune. PPMB and People's Committees of districts will appraise these tables in respect of prices, quantities of affected assets, rights that the displaced persons are entitled to, etc. before notifying each commune for review and comments. All tables of compensation price application must be checked and signed by the displaced persons to prove their consensus. PPMB and DCARCs will submit the proposed unit rates as per result of the replacement cost survey to PPC for review and approval. The unit rates to be applied will be based on the approved unit rates of PPC.
  - (x) Submission of RP or REMDP and ADB concurrence. PPMB will prepare Updated Plan, disclose key information of the Updated RP or REMDPs to the displaced persons and submit the same to ADB for review and concurrence.
  - (xi) Uploading on ADB website. Once the RP or REMDP is acceptable to ADB, the RP or REMDP will be uploaded on the ADB website.
  - (xii) Implementation of RP or REMDP. Compensation and assistance will be paid directly to the DPs under the supervision of representatives of DCARCs, commune authorities and representatives of the displaced persons. Income restoration and relocation plan will be implemented in close consultation with the DPs and concerned agencies.

111. **Monitoring.** Internal monitoring and independent monitoring will be implemented from RP or REMDP preparation to implementation. Grievances received will be addressed through the grievance redress mechanism set up for the subproject. One post-

subproject assessment survey will be undertaken by the EMA within 6 to 12 months after completion of compensation and resettlement activities

112. The EA will prepare periodic monitoring reports on the progress of EM peoples plan implementation, highlighting compliance issues and corrective actions, if any. The EA will submit semi annual monitoring reports to ADB.

## 8. Budget and Financing

### 8.1 Budget and Financing

113. Resettlement budget is required for all resettlement activities, including compensation for land acquisition, affected assets, administrative cost, monitoring, income restoration, resettlement site for relocation if required, etc. and included in subproject cost. Estimated costs will be updated based on the DMS and RCS results following detailed designs. ADB may finance part of resettlement costs if the government wishes. The PPCs, PPMB, NPT and the ADB will review and revise the resettlement plan and budget should unforeseen obligations related to the agreed RF arise during implementation of the subproject RP or REMDP. The updated RP or REMDP will identify key activities for which funds will be used.

### 8.2 Estimated Budget for RP or REMDP

114. The total resettlement estimated costs for subprojects first tranche in six provinces (Bac Ninh, Hung Yen, Hai Duong, Dong Nai and Ba Ria – Vung Tau, Binh Duong) is about US\$ 200 million. The estimated cost will be updated based on the DMS and RCS results following detailed designs. The PPCs, PPMBs and the ADB will review and revise the RP or REMDP and budget should unforeseen obligations related to the agreed REMDF that arise during implementation of the subproject. The updated RP or REMDP will identify key activities for which funds will be used. In case of REMDP special funds will be allocated to address special concerns of EM peoples

## 9. Monitoring and Reporting

### 9.1 Monitoring and Reporting

115. The Subproject will establish systems for internal and external monitoring and evaluation. The main purpose of the monitoring and evaluation programme is to ensure that resettlement and acquisition of land and properties has been implemented in accordance with the policies and procedures of the RP or REMDPs. External monitoring and evaluation, in particular, will focus on social impacts on DPs and whether or not DPs have been able to restore a standard of living equal to, if not better than, that which they had before the subproject.

116. The objectives of the monitoring and evaluation programme are to (i) ensure that the standard of living of DPs is restored or improved; (ii) monitor whether the time lines are being met; (iii) assess if compensation, rehabilitation measures and social development support programmes are sufficient; (iv) identify problems or potential problems; and (v) identify methods of responding immediately to mitigate problems

### 9.2 Internal Monitoring

117. The PPMBs will conduct the internal monitoring of RP or REMDPs implementation for NPT to identify as early as possible the activities achieved and the cause(s) of problems encountered so that arrangements in RP or REMDPs implementation can be adjusted. Related information will be collected monthly from the field to assess the progress of RP or REMDPs implementation and will be consolidated. Results of the internal monitoring are to be reported quarterly to NPT.

118. An initial key indicator will be, as per assurances to the ADB, the payment of compensation, relocation to new sites, and rehabilitation assistance being in place before award of civil contracts and these will be monitored under each of the Civil Contracts. The other main indicators that will be monitored regularly are:

- (i) Payment of compensation to all DPs in various categories, according to the compensation policy described in the RP or REMDP.
- (ii) Delivery of technical assistance, relocation, payment of subsistence and moving allowances.
- (iii) Delivery of income restoration and social support entitlements.
- (iv) Public information dissemination and consultation procedures.
- (v) Adherence to grievance procedures and outstanding issues requiring management's attention.
- (vi) Priority of DPs regarding the options offered.
- (vii) Coordination and completion of resettlement activities and award of civil works contract

### 9.3 Independent External Monitoring

119. The general objective of the external monitor is to provide an independent verification of the Borrower's monitoring information through the conducting of a periodic review and assessment of achievement of resettlement objectives, the changes in living standards and livelihoods, restoration of the economic and social base of the affected people, the effectiveness, impact and sustainability of entitlements, the need for further mitigation measures if any, and to learn strategic lessons for future policy formulation and planning.

120. For Category A subprojects (either resettlement or ethnic minorities), NPT will retain the services of a qualified and experienced independent external body or person called External Monitoring Agency (EMA) to undertake objective monitoring and evaluation of RP or REMDPs implementation..

121. The following indicators will be monitored, upon approval of this RP or REMDP, and evaluated by the EMA:

- i. Payment of compensation will be as follows: (a) Full payment to be made to all affected persons sufficiently before land acquisition; adequacy of payment to replace affected assets; and (b) Compensation for affected structures should be equivalent to the replacement cost of materials and labour based on standards and special features of construction with no deductions made for depreciation or the value of salvageable materials.
- ii. Coordination of resettlement activities with construction schedule: the completion of land acquisition and resettlement activities for any component should be completed prior to award of the civil works contract for that component.
- iii. Provision of technical assistance for house construction to DPs who are rebuilding their structures on their remaining land, or building their own structures in new places as arranged by the subproject, or on newly assigned plots.
- iv. Provision of income restoration assistance under the income restoration programme
- v. Public consultation and awareness of compensation policy: (a) All DPs should be fully informed and consulted about land acquisition, leasing and relocation activities; (b) The monitoring team should attend at least one public consultation meeting each month to monitor public consultation procedures, problems and issues that arise during the meetings, and solutions that are proposed; (c) Public awareness of the compensation policy and entitlements will be assessed among all DPs; (d) Assessment of awareness of various options available to DPs as provided for in the RP or REMDP.
- vi. Affected persons should be monitored regarding restoration of productive activities.
- vii. The level of satisfaction of DPs with various aspects of the RP or REMDP will be monitored and recorded. The operation of the mechanisms for grievance redress, and the speed of grievance redress will be monitored.
- viii. Throughout the implementation process, the trends of living standards will be observed and surveyed. Any potential problems in the restoration of living standards will be reported.

122. The EMA shall submit quarterly reports to the NPT. One post-subproject assessment survey will be undertaken by the EMA within 6 to 12 months after completion of compensation and resettlement activities.

123. If the subproject affects EM population EMA will prepare periodic monitoring reports on the progress of REMDP implementation, highlighting compliance issues and corrective actions, if any. The NPT will prepare semi-annual monitoring reports that describe the progress of the implementation of resettlement activities and any compliance issues and corrective actions and send a copy to ADB. These reports will closely follow the involuntary resettlement monitoring indicators agreed at the time of resettlement plan approval. The costs of monitoring requirements will be reflected in project budgets

## 10. Annexes

### 10.1 Annex 1 Ethnic Minority Impact Screening Checklist table

KEY CONCERNS (Please provide elaborations on the Remarks column)	Yes	NO	Not known	Remarks
<b>A. Ethnic Minority Identification</b>				
1. Are there socio-cultural groups present in or who use the project area who may be considered as "tribes" (hill tribes, scheduled tribes, tribal peoples), "minorities" (ethnic or national minorities), or "indigenous communities" in the project area?				
2. Are there national or local laws or policies as well as anthropological research/studies that consider these groups present in or using the project area as belonging to "ethnic minorities", scheduled tribes, tribal peoples, national minorities, or cultural communities?				
3. Do such groups self-identify as being part of a distinct social and cultural group?				
4. Do such groups maintain collective attachments to distinct habitats or ancestral territories and/or to the natural resources in these habitats and territories?				
5. Do such groups maintain cultural, economic, social, and political institutions distinct from the dominant society and culture?				
6. Do such groups speak a distinct language or dialect?				
7. Have such groups been historically, socially and economically marginalized, disempowered, excluded, and/or discriminated against?				
8. Are such groups represented as "ethnic minorities" or "scheduled tribes" or "tribal populations" in any formal decision-making bodies at the national or local levels?				
<b>B. Identification of Potential Impacts</b>				
9. Will the project directly or indirectly benefit or target Ethnic Minority people?				
10. Will the project directly or indirectly affect Ethnic Minorities traditional socio-cultural and belief practices? (e.g. child-rearing, health,				

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education, arts, and governance)				
11. Will the project affect the livelihood systems of Ethnic Minorities? (e.g., food production system, natural resource management, crafts and trade, employment status)				
12. Will the project be in an area (land or territory) occupied, owned, or used by Ethnic Minorities, and/or claimed as ancestral domain?				
<b>C. Identification of Special Requirements</b> <i>Will the project activities include:</i>				
13. Commercial development of the cultural resources and knowledge of Ethnic Minorities?				
14. Physical displacement from traditional or customary lands?				
15. Commercial development of natural resources (such as minerals, hydrocarbons, forests, water, hunting or fishing grounds) within customary lands under use that would impact the livelihoods or the cultural, ceremonial, spiritual uses that define the identity and community of Ethnic Minorities?				
16. Establishing legal recognition of rights to lands and territories that are traditionally owned or customarily used, occupied or claimed by ethnic minority people?				
17. Acquisition of lands that are traditionally owned or customarily used, occupied or claimed by ethnic minorities?				

**D. Anticipated project impacts on Ethnic Minorities**

<b>Project component/ activity/ output</b>	<b>Anticipated positive effect</b>	<b>Anticipated negative effect</b>
<b>1</b>		
<b>2</b>		
<b>3</b>		
<b>4</b>		
<b>5</b>		

Note: The ADB project team may attach additional information on the project, as necessary.

## **10.2 Annex 2 Sample Project Information Booklet (PIB)**

### **Question 1: What is the ADB Project?**

**Answer:** ADB is to help EVN mobilize long-term and competitive funding from commercial banks to sustain the GOVs initiatives reducing the cost of electricity and improve the reliability of the electricity supply so as to promote economic growth and improve the living standard of the poor.

### **Question 2: how will the ADB Project affect the local population?**



**Answer:** The development of new Substations and Transmission Lines and/or upgrading the existing ones provincial and district roads will/may require some land acquisition. However, their design will attempt to avoid or at least to minimize the negative impacts on households and communities. The final location of Power Substations and TL's alignments will be selected after public consultations have been carried out.

If land acquisition is necessary, the Project displaced people will be properly compensated for their affected land, houses, structures, crops and/or trees. Relocation and income restoration assistance will also be provided to Displaced Persons (DPs) who will be severely affected by the Project. Details are included in a Resettlement Plan that is available at your commune office. Please also refer to other relevant Public Information Brochures.

**Question 3: What is the main objective of resettlement plan?**

**Answer:** The main objective of the Resettlement Plan is to ensure that all Displaced Persons will be at least as well-off, if not better-off, than they would have been in the absence of the Project.

**Question 4: What if my land is affected by the project?**

**Answer:** If land is available, your affected land will be replaced with land of equal area and productive capacity and at a location suitable and acceptable to you; or if, after being fully informed about your options, you prefer cash, compensation can be paid in cash at replacement value at current market prices, or a compensation partly in cash and partly in land might be possible.

**Question 5: Do we need to have a land title in the order to be compensated?**

**Answer:** No, lack of formal legal rights to land does not prevent any Displaced Persons (DPs) from receiving compensation or assistance measures. Those DPs who possess a land use rights certificate (LURC) or any other form of written or verbal agreement to utilize the land are entitled to compensation for the lost land as well as assets on the land. Those DPs who do not have legal/legalize or temporary/lease rights for land will still be compensated for the assets on the land, such as any structures, crops and trees.

**Question 6: Is the compensation applied for affected houses and structures?**

**Answer:** Yes. Compensation will be applied for all affected assets including houses, shops and other structures as well as other fixed assets at replacement value at current market prices (including material and labour) without any deductions for building depreciation or salvageable building materials. This will ensure that the Displaced Persons are able to reconstruct houses and other structures of better or at least the same quality as before.

**Question 7: What about affected crops and trees?**

**Answer:** Affected crops, fruit and timber trees and tree fences will be compensated in cash at current market prices. Compensation for non-harvested crops will be based on the average production in the past 3 years multiplied by current market prices. Compensation for trees will be based on the type, age and productivity of trees. A Replacement Cost Survey will be conducted during detailed design of the Project to establish market prices for compensation. If there are delays in paying compensation, prices will be updated to take inflation into consideration.

**Question 8: Besides the compensation, how can the project help?**

**Answer:** In addition to compensation for loss of land and other assets, the Project will provide rehabilitation assistance to eligible Displaced Persons (DPs) to ensure that their standard of living is maintained or improved after the Project. Eligible DPs for rehabilitation assistance include:

**Severely affected households:** Households that lose more than 10% of their total productive landholdings will receive an economic rehabilitation package in accordance with provisions of Decree 69/2009/CP.

**Households that relocate:** Households that must relocate to new residential land will receive a transition subsistence allowance equivalent to 30kg of rice per person per month for six months for during transition; if have to be relocated, or for 3 months if have to rebuild main house on the remaining land behind; a transportation allowance of between VND 1,000,000 and 5,000,000 in cash or assistance from the District Resettlement Committee; and, an incentive bonus not exceeding VND 5,000,000 if DPs demolish their affected houses or structures in a timely manner.

**Business owners that lose income while they relocate or rebuild their shops/businesses:** Households with small, unregistered businesses will receive cash compensation equal to the provincial minimum wage for three months. Owners of registered businesses will receive cash compensation at maximum equal to 30% of their after-tax annual revenue as provided by Decree 69/2009/CP.

**Employees and hired labourers who lose their jobs:** will receive cash compensation for lost salary/wages for each month they cannot work, if the loss is temporary; or, if the loss is permanent, cash compensation equivalent to the provincial minimum wage for six months or cash compensation for remaining contract period whichever is higher.

**Question 9: does that mean that anybody in our community can claim for compensation?**

**Answer:** No. Entitled Displaced Persons (DPs) are those persons or households that are surveyed during the detailed measurement survey (DMS) activities. The DPs and local authorities will be informed of the cut-off date (the date of DMS) for the sub-project. Anyone moving into the Project area after cut-off date will not be entitled to compensation and assistance under the Project.

**Question 10: What if I have been told to move but was not included in the survey?**

**Answer:** During the detailed design of the Project, some minor changes may occur. This could affect the results of original inventory of losses. These DPs will be entitled to the same compensation as all other DPs. Once the actual position and alignment of the road are known, a detailed measurement survey (DMS) will be conducted in the presence of DPs to inventory the losses for compensation and rehabilitation.

**Question 11: How will DPs be consulted and informed?**

**Answer:** A consultation and public information program will be organized in your commune to ensure that DPs receive complete and timely information about the Project. DPs will be provided information on project components, impacts, their rights and entitlements, grievance mechanism, rights of participation and consultation, resettlement activities, responsibilities of

institutions and implementation schedule. DPs will participate in resettlement planning and implementation and they will also be consulted on the following issues: a) resettlement options according to their entitlement, b) training and training preferences in current or new occupations, c) other project aspects.

This program will enable the Project to design the resettlement and rehabilitation program to meet the needs of DPs, and help DPs to make informed decisions about compensation and relocation. Consultations with DPs and local authorities will reduce the potential for conflicts and minimize the risk of project delays, and maximize the economic and social benefits of the Project.

**Question 12: If there are any disagreements or problems about land acquisition, compensation or other general disputes during project implementation, do DPs have the right to voice their complaints?**

**Answer:** Yes, Displaced Persons (DPs) can voice their complaints (in verbal or written form) to responsible local authorities and resettlement committees. Their complaints can be filed first at the ward or commune level, and can be elevated to the district and provincial level and taken to district court if the DPs are not satisfied with the decision of lower levels. DPs will be exempted from all taxes, administrative and legal fees. All complaints of DPs on any aspect of land acquisition, compensation, resettlement and implementation will be addressed in a timely and satisfactory manner.

**Question 13: as a resident in the project area, how can I help?**

**Answer:** We would like you to participate in all consultation meetings and other project related activities in order to ensure that you are fully informed and consulted. Your active participation during the detailed measurement survey (DMS) and implementation will allow us to determine measures to mitigate impacts, to identify problems or potentials problems and to identify ways of responding immediately to solve these problems.

**Question 14: How will you know if the objectives of this project are met?**

**Answer:** PPMB will ensure internal monitoring all Project activities. In addition, PPMB will engage an independent external monitoring agency to conduct external monitoring of resettlement activities during Project implementation. Every 6 months, the independent monitoring agency will submit a report to PPMB and ADB on resettlement implementation progress. A post-resettlement impact evaluation will assess whether negative impacts have been mitigated adequately and pre-project standards of living of DPs have been restored as a result of resettlement and the Project.

**FOR FURTHER INFORMATION AND SUGGESTIONS –**

Please contact the SPPMB, DCARCs where you live:

1. Project Power Management Board (PPMB)s:

Address.....

Person in charge:.....Tel.....

2. District Compensation, Assistance Resettlement Committee (DCARC) of ... District;

Address:.....

Person in charge:.....Tel.....